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Human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox, submitted in accordance with Human Rights Council resolution 37/8.

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Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

Summary

Pursuant to Human Rights Council resolution 37/8, the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment submits his first report to the General Assembly. In the report, the Special Rapporteur recommends that the Assembly recognize the human right to a safe, clean, healthy and sustainable environment. Drawing on the extensive experience with this right at the national and regional levels, he explains why the time has come for such recognition by the United Nations.

I. Introduction and background to the mandate

1. The present report is the first report to the General Assembly of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment.

2. The Human Rights Council established this mandate in March 2012. In its resolution 19/10, it decided to appoint an independent expert with a mandate to study the human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, and to identify and promote best practices on the use of human rights obligations and commitments to inform, support and strengthen environmental policymaking. John H. Knox was appointed to the position in August 2012. In his first report (A/HRC/22/43), presented to the Council in March 2013, he emphasized that human rights and the environment are interdependent. A safe, clean, healthy and sustainable environment is necessary for the full enjoyment of a vast range of human rights, including the rights to life, health, food, water and development. At the same time, the exercise of human rights, including the rights to information, participation and remedy, is vital to the protection of the environment.

3. Over the first two years of the mandate, the Independent Expert mapped the human rights obligations relating to the environment in more detail. He held a series of regional consultations and, with the help of attorneys and academics working pro bono, reviewed hundreds of statements of treaty bodies, regional human rights tribunals, special procedures mandate holders and other human rights authorities that had applied human rights norms to environmental issues. He described the statements in 14 reports, each of which addressed one source or set of sources. He found that, despite the diversity of the sources, their views on the relationship of human rights law and the environment were remarkably coherent. These views were summarized in his second report (A/HRC/25/53), presented in March 2014. Virtually every source reviewed identified human rights whose enjoyment was infringed or threatened by environmental harm, and the sources agreed that States had obligations under human rights law to protect against such harm. The obligations included procedural obligations (such as duties to provide information, facilitate participation and provide access to remedies), substantive obligations (including the obligation to regulate private actors) and additional obligations towards those in particularly vulnerable situations.

4. On the basis of his research and regional consultations, the Independent Expert also identified good practices in the use of these obligations. In his subsequent report to the Human Rights Council (A/HRC/28/61), presented in March 2015, he described more than 100 such good practices. He published more detailed descriptions of each of the good practices on the website of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and made them available in a searchable database, http://environmentalrightsdatabase.org.

5. In March 2015, in its resolution 28/11, the Human Rights Council decided to extend the mandate for another three years, changed the title of the mandate holder to Special Rapporteur and encouraged him to continue to study the human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment and to identify and promote good practices relating to those obligations. He submitted reports on specific aspects of that relationship, including climate change and human rights, in 2016 (A/HRC/31/52), biodiversity and human rights, in 2017 (A/HRC/34/49), and children's rights and the environment, in 2018 (A/HRC/37/58).

6. In the same resolution, the Council encouraged the Special Rapporteur to promote and report on the realization of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, to disseminate his findings by continuing to give particular emphasis to practical solutions with regard

to their implementation and to work on identifying challenges and obstacles to the full realization of such obligations. The Special Rapporteur presented a report in March 2016 with specific recommendations on the implementation of the human rights obligations relating to the environment (see A/HRC/31/53). In his second term, he promoted the implementation of the obligations in many ways, including by partnering with the United Nations Environment Programme (UNEP) on a series of judicial workshops on constitutional rights to a healthy environment, supporting the United Nations Institute for Training and Research in the development of an online course on human rights and the environment, and working with the Universal Rights Group to develop a website for environmental human rights defenders, www.environment-rights.org, as well as by undertaking country visits and receiving communications on violations.

7. With a view to facilitating the implementation of the human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, the Special Rapporteur was also urged to develop and disseminate guidance that clearly describes the relevant norms and is easy to understand and apply (see A/HRC/31/53, para. 69). On the basis of his previous work and following extensive consultation with representatives of Governments, international organizations, civil society organizations and academics, he presented framework principles on human rights and the environment (A/HRC/37/59) to the Human Rights Council in March 2018 at its thirty-seventh session.

8. The 16 framework principles set out basic obligations of States under human rights law as they relate to the enjoyment of a safe, clean, healthy and sustainable environment. Each framework principle has a commentary that elaborates on it and further clarifies its meaning. The framework principles and commentary do not create new obligations. Rather, they reflect the application of existing human rights obligations in the environmental context.

9. As the name "framework principles" indicates, they are intended to provide a sturdy basis for understanding and implementing human rights obligations relating to the environment, but they do not purport to describe all the human rights obligations that can currently be brought to bear on environmental issues, much less attempt to predict those that may evolve in the future. The goal was simply to describe the main human rights obligations that apply in the environmental context in order to facilitate their practical implementation and further development. To that end, the Special Rapporteur urged States, international organizations and civil society organizations to disseminate and publicize the framework principles and to take them into account in their own activities.

10. At its thirty-seventh session, the Human Rights Council adopted resolution 37/8, in which it extended the mandate for another three years. The Council took note with appreciation of the report presenting the framework principles on human rights and the environment, and called upon States to implement fully their obligations to respect and ensure human rights without distinction of any kind, including in the application of environmental laws and policies. The Council requested the Special Rapporteur:

(a) To study the human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, in consultation with Governments, relevant international organizations and intergovernmental bodies, including UNEP and the United Nations Development Programme, and relevant multilateral environment agreements, human rights mechanisms, local authorities, national human rights institutions, civil society organizations, including those representing indigenous peoples and other persons in vulnerable situations, the private sector and academic institutions;

(b) To identify, promote and exchange views on good practices relating to human rights obligations and commitments that inform, support and strengthen environmental policymaking;

(c) To promote and report on the realization of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, with an emphasis on practical solutions with regard to their implementation;

(d) To identify challenges, obstacles and protection gaps that are preventing the full realization of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment;

(e) To contribute to and participate in intergovernmental conferences and meetings relevant to the mandate, including the United Nations Environment Assembly;

(f) To develop a dialogue, liaise and collaborate with all relevant stakeholders with a view to enhancing public awareness of the human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment;

(g) To conduct country visits and to respond promptly to invitations from States;

(h) To apply a gender perspective by, inter alia, considering the particular situation of women and girls and identifying gender-specific discrimination and vulnerabilities, and addressing good practices where women and girls act as agents of change in safeguarding and managing sustainably the environment;

(i) To work in close coordination, while avoiding unnecessary duplication, with other special procedures and subsidiary organs of the Human Rights Council, relevant United Nations bodies, agencies, funds and programmes, including UNEP and the United Nations Development Programme, the treaty bodies and international and regional organizations, and multilateral environmental agreements, taking into account the views of other stakeholders, including relevant regional human rights mechanisms, national human rights institutions, civil society organizations and academic institutions;

(j) To submit an annual report, including conclusions and recommendations, to the Human Rights Council and to the General Assembly.

11. At its thirty-eighth session, the Human Rights Council appointed David R. Boyd, a professor at the University of British Columbia, as the Special Rapporteur. He will begin to serve on 1 August 2018. Because the present report was submitted by Mr. Knox before the conclusion of his term, but will be presented to the General Assembly by Mr. Boyd in October 2018, Mr. Knox consulted with Mr. Boyd in the preparation of the report. In effect, the report is a joint report of the current holder of the mandate and his successor.

II. "Greening" human rights

12. From the beginning of the modern environmental movement in the late 1960s, it has been clear that a healthy environment is necessary for the full enjoyment of human rights, including the rights to life and health. Fifty years ago, the General Assembly, in its resolution 2398 (XXII), decided to convene the first international environmental conference on the environment, noting its concern about the effects of "the continuing and accelerating impairment of the quality of the human environment ... on the condition of man, his physical, mental and social well-being, his dignity and his enjoyment of basic human rights, in developing as well as

developed countries". At the ensuing United Nations Conference on the Human Environment, held in Stockholm in 1972, Governments adopted a declaration in which it is stated, in the first paragraph of the proclamation, that "both aspects of man's environment, the natural and the man-made, are essential to his well-being and to the enjoyment of basic human rights — even the right to life itself".

13. In recent decades, human rights bodies have elaborated on the understanding that a healthy environment is of fundamental importance to the full enjoyment of a vast range of human rights. Treaty bodies, regional tribunals, special rapporteurs and other international human rights bodies have described how environmental degradation interferes with specific rights, including the rights to life, health, food, water, housing, culture, development, property and home and private life. In effect, they have "greened" existing human rights. They have also explained that the obligations of States to respect, protect and fulfil human rights apply in the environmental context no less than in any other.

14. In the framework principles presented earlier in 2018 to the Human Rights Council, the Special Rapporteur summarizes the obligations of States under human rights law relating to the enjoyment of a safe, clean, healthy and sustainable environment. The framework principles include specific procedural obligations, such as the duties of States to respect and protect the rights to freedom of expression, association and peaceful assembly in relation to environmental matters, provide for environmental education and public awareness, provide public access to environmental information, require the prior assessment of the possible environmental and human rights impacts of proposed projects and policies, provide for and facilitate public participation in decision-making related to the environment and provide for access to effective remedies for violations of human rights and domestic laws relating to the environment.

15. The framework principles also set out human rights obligations relating to substantive standards. Ideally, environmental standards would be set and implemented at levels that would prevent all environmental harm from human sources and ensure a safe, clean, healthy and sustainable environment. However, limited resources may prevent the immediate realization of the rights to health, food and water and other economic, social and cultural rights. The obligation of States to achieve progressively the full realization of these rights by all appropriate means[1] requires States to take deliberate, concrete and targeted measures towards that goal, but States have some discretion in deciding which means are appropriate in view of available resources.[2] Similarly, human rights bodies applying civil and political rights, such as the rights to life and private and family life, have held that States have some discretion in determining the appropriate levels of environmental protection, taking into account the need to balance the goal of preventing all environmental harm with other social goals.[3]

16. This discretion is not unlimited. One constraint is that decisions as to the establishment and implementation of appropriate levels of environmental protection must always comply with obligations of non-discrimination. Another constraint is the strong presumption against retrogressive measures in relation to the progressive realization of economic, social and cultural rights.[4] Other factors that should be taken

[1] See International Covenant on Economic, Social and Cultural Rights, art. 2, para. 1.

[2] See Committee on Economic, Social and Cultural Rights, general comment No. 3 (1990) on the nature of States parties' obligations.

[3] See, for example, European Court of Human Rights, *Hatton and others v. United Kingdom of Great Britain and Northern Ireland*, Application No. 36022/97, Judgment, 8 July 2003, para. 98; see also Rio Declaration on Environment and Development, principle 11.

[4] See Committee on Economic, Social and Cultural Rights, general comment No. 3, para. 9.

into account in assessing whether environmental standards otherwise respect, protect and fulfil human rights include the following:

(a) The standards should result from a procedure that itself complies with human rights obligations, including those relating to the rights to freedom of expression, freedom of association and peaceful assembly, information, participation and remedy;

(b) The standards should take into account and, to the extent possible, be consistent with all relevant international environmental, health and safety standards, such as those promulgated by the World Health Organization;

(c) The standards should take into account the best available science. However, the lack of full scientific certainty should not be used to justify the postponement of effective and proportionate measures to prevent environmental harm, especially when there are threats of serious or irreversible damage.[5] States should take precautionary measures to protect against such harm;

(d) The standards must comply with all relevant human rights obligations. For example, in all actions concerning children, the best interests of the child must be a primary consideration;[6]

(e) The standards must not strike an unjustifiable or unreasonable balance between environmental protection and other social goals given the effects of the standards on the full enjoyment of human rights.[7]

17. Once adopted, the standards must be implemented and enforced to be effective. Governmental authorities must comply with the relevant environmental standards in their own operations. They must also monitor and effectively enforce compliance with the standards by preventing, investigating, punishing and redressing violations of the standards by private actors as well as governmental authorities. In particular, States must regulate business enterprises to protect against human rights abuses resulting from environmental harm and to provide for remedies for such abuses.

18. Moreover, in accordance with the Guiding Principles on Business and Human Rights, the responsibility of business enterprises to respect human rights includes the responsibility to avoid causing or contributing to adverse human rights impacts through environmental harm, to address such impacts when they occur and to seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships. Businesses should comply with all applicable environmental laws, issue clear policy commitments to meet their responsibility to respect human rights through environmental protection, implement human rights due diligence processes, including human rights impact assessments, to identify, prevent, mitigate and account for how they address their environmental impacts on human rights, and enable the remediation of any adverse environmental human rights impacts that they cause or to which they contribute.

19. Many environmental challenges, such as climate change, ozone depletion, the loss of biological diversity, long-range air pollution, marine pollution, plastic pollution and trade in hazardous substances, have global or transboundary dimensions. The obligation of States to cooperate to achieve universal respect for and

[5] See Rio Declaration on Environment and Development, principle 15.

[6] See Convention on the Rights of the Child, art. 3, para. 1.

[7] For example, a decision to allow massive oil pollution in the pursuit of economic development could not be considered reasonable because of its disastrous effects on the enjoyment of the rights to life, health, food, water and a healthy environment (see African Commission on Human and Peoples' Rights, *Social and Economic Rights Action Centre and Centre for Economic and Social Rights v. Nigeria*, communication No. 155/96, 2001).

observance of human rights requires States to work together to address transboundary and global environmental threats to human rights. States have entered into agreements on many international environmental problems, including climate change, ozone depletion, transboundary air pollution, marine pollution, desertification and the conservation of biodiversity.

20. The obligation of international cooperation does not require every State to take exactly the same actions. The responsibilities that are necessary and appropriate for each State will depend in part on its situation, and agreements between States may appropriately tailor their commitments to take account of their respective capabilities and challenges. Multilateral environmental agreements often include different requirements for States in different economic situations and provide for technical and financial assistance from wealthy States to other States.

21. Once their obligations have been defined, however, States must comply with them in good faith. No State should ever seek to withdraw from any of its international obligations to protect against transboundary or global environmental harm. States should continually monitor whether their existing international obligations are sufficient. When those obligations and commitments prove to be inadequate, States should quickly take the steps necessary to strengthen them, bearing in mind that the lack of full scientific certainty should not be used to justify the postponement of effective and proportionate measures to ensure a safe, clean, healthy and sustainable environment.

22. Finally, human rights law requires States to take special care to respect, protect and fulfil the rights of those who are most at risk from environmental harm. As the Human Rights Council has recognized, while the human rights implications of environmental damage are felt by individuals and communities around the world, the consequences are felt most acutely by those segments of the population that are already in vulnerable situations (see Human Rights Council resolution 34/20). Persons may be vulnerable because they are unusually susceptible to certain types of environmental harm or because they are denied their human rights, or both. Those who are at greater risk from environmental harm for either or both reasons often include women, children, persons living in poverty, members of indigenous peoples and traditional communities, older persons, persons with disabilities, national, ethnic, religious or linguistic minorities and displaced persons. Many persons are vulnerable and subject to discrimination along more than one dimension, such as children living in poverty or indigenous women.

23. Indigenous peoples are particularly vulnerable to environmental harm because of their close relationship with the natural ecosystems on their ancestral territories. Traditional (sometimes called "local") communities that do not self-identify as indigenous may also have close relationships with their ancestral territories and depend directly on nature for their material needs and cultural life. Examples include the descendants of Africans brought to Latin America as slaves, who escaped and formed tribal communities. In order to protect the human rights of the members of such traditional communities, States have obligations towards them as well. The obligations of States towards indigenous peoples and traditional communities that are of particular relevance in the environmental context include the obligations to: (a) recognize and protect the rights of indigenous peoples and traditional communities to the lands, territories and resources that they have traditionally owned, occupied or used; (b) consult with them and obtain their free, prior and informed consent before relocating them or taking or approving any other measures that may affect their lands, territories or resources; (c) respect and protect their traditional knowledge and practices in relation to the conservation and sustainable use of their lands, territories and resources; and (d) ensure that they fairly and equitably share the benefits from activities relating to their lands, territories or resources.

24. Many other segments of the population can also be at risk from environmental harm. Examples of potential vulnerability include the following:

(a) In most households, women and girls are primarily responsible for water and hygiene. When sources of water are polluted, they are at greater risk of exposure to environmental contaminants. If women and girls must travel longer distances to find safer sources or sufficient quantities of water, they are deprived of educational and economic opportunities and are at greater risk of assault (see A/HRC/33/49). Nevertheless, women are too often excluded from decision-making procedures on water and sanitation;

(b) Children have little or no control over the environmental threats that they face, lack the knowledge and ability to protect themselves, and are developing physically. As a result, they are more susceptible to many types of environmental harm. Of the approximately 6 million deaths of children under the age of 5 in 2015, more than 1.5 million could have been prevented through the reduction of environmental risks. Moreover, exposure to pollution and other environmental harms in childhood can have lifelong consequences, including diminished mental capacity and an increased likelihood of cancer and other diseases (see A/HRC/37/58);

(c) Persons living in poverty often lack adequate access to safe water and sanitation. They are also more likely to burn wood, coal and other solid fuels for heating and cooking, causing household air pollution that contributes to respiratory and cardiovascular disease, as well as cancer;

(d) Older persons may be vulnerable to environmental harm because they are more susceptible to heat, pollutants and vector-borne diseases, among other factors;

(e) The vulnerability of persons with disabilities to natural disasters and extreme weather is often exacerbated by barriers to receiving emergency information in an accessible format and to accessing means of transport, shelter and relief;

(f) Because minorities are often marginalized and lack political power, their communities often become the sites of a disproportionate number of waste dumps, refineries, power plants, other polluting facilities and roads with high volumes of traffic, exposing them to higher levels of air pollution and other types of environmental harm;

(g) Natural disasters and other types of environmental harm often cause internal displacement and transboundary migration, which can exacerbate vulnerabilities and lead to additional human rights violations and abuses (see A/66/285 and A/67/299).

These vulnerabilities often overlap, such as in the case of women and children from minority groups who live in poverty, compounding the risks of environmental harm and the concomitant violation of their human rights.

25. The obligations of States to prohibit discrimination and to ensure equal and effective protection against discrimination[8] apply to the equal enjoyment of human

[8] See, for example, International Covenant on Civil and Political Rights, arts. 2, para. 1, and 26; International Covenant on Economic, Social and Cultural Rights, art. 2, para. 2; International Convention on the Elimination of All Forms of Racial Discrimination, arts. 2 and 5; Convention on the Elimination of All Forms of Discrimination against Women, art. 2; Convention on the Rights of the Child, art. 2; and Convention on the Rights of Persons with Disabilities, art. 5. The term "discrimination" in the present report refers to any distinction, exclusion, restriction or preference which is based on any ground, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms (see Human Rights Committee, general comment No. 18 (1989) on non-discrimination, para. 7).

rights relating to a safe, clean, healthy and sustainable environment. States therefore have obligations, among others, to protect against environmental harm that results from or contributes to discrimination, to provide for equal access to environmental benefits and to ensure that their actions relating to the environment do not themselves discriminate. In order to protect the rights of those who are particularly vulnerable to or at risk from environmental harm, States must also ensure that their laws and policies take into account the ways that some parts of the population are more vulnerable or susceptible to environmental harm and the barriers that some face to exercising their human rights relating to the environment.

26. Finally, States have obligations to protect environmental human rights defenders, namely, individuals and groups striving to protect and promote human rights relating to the environment (see A/71/281, para. 7). Those who work to protect the environment on which the enjoyment of human rights depends are protecting and promoting human rights as well, whether or not they self-identify as human rights defenders. They are among the human rights defenders most at risk. On average, four environmental defenders are killed every week because of their work, and countless more receive threats, suffer violence, are unlawfully detained or are otherwise harassed.

27. Like other human rights defenders, environmental human rights defenders are entitled to all the rights and protections set out in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, including the rights to be protected in their work and to strive for the protection and realization of human rights at the national and international levels. To that end, States must provide a safe and enabling environment for defenders to operate free from threats, harassment, intimidation and violence. The requirements for such an environment include that States adopt and implement laws that protect human rights defenders in accordance with international human rights standards;[9] publicly recognize the contributions of human rights defenders to society and ensure that their work is not criminalized or stigmatized; develop, in consultation with human rights defenders, effective programmes for protection and early warning; provide appropriate training for security and law enforcement officials; ensure the prompt and impartial investigation of threats and violations and the prosecution of alleged perpetrators; and provide for effective remedies for violations, including appropriate compensation (see A/66/203, A/71/281 and A/HRC/25/55, paras. 54–133).

III. National and regional recognition of the human right to a safe, clean, healthy and sustainable environment

28. In addition to the greening of human rights, including the rights to life, health, food, water, housing, culture, development, property and home and private life, there has been a second critical development in the field of human rights and the environment since the General Assembly first took note of the nexus between those issues in 1968. This involves the emergence of a new human right: the right to a safe, clean, healthy and sustainable environment, or, more simply, the right to a healthy environment. The roots of this new human right can be traced back to the Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration) of 1972, in which, in the very first principle, it is stated that "man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations".

[9] See Model Law for the Recognition and Protection of Human Rights Defenders.

29. Since 1972, the right to a healthy environment has gained widespread public and legal recognition across the world. Governments have incorporated it into constitutions and environmental legislation. The right to a healthy environment has also been incorporated into regional human rights agreements and regional environmental treaties. Governments have made genuine efforts, with varying degrees of success, to respect, protect, fulfil and promote this right. Over the past forty years, national courts, regional tribunals, treaty bodies, special procedures and many international institutions have contributed to defining the content, scope and parameters of the right to a healthy environment, as well as its relationship with other human rights.

30. At the national level, Portugal became the first country to adopt a constitutional "right to a healthy and ecologically balanced human environment", in 1976, followed by Spain in 1978. Since then, the right to a healthy environment has gained constitutional recognition and protection in more than 100 States.[10] No other "new" human right has gained such widespread constitutional recognition so rapidly. About two thirds of the constitutional rights refer to a healthy environment; alternative formulations include rights to a clean, safe, favourable, wholesome or ecologically balanced environment. For example, according to article 112 of the human rights chapter of the Constitution of Norway: "Every person has a right to an environment that is conducive to health and to natural surroundings whose productivity and diversity are preserved. Natural resources should be made use of on the basis of comprehensive long-term considerations whereby this right will be safeguarded for future generations as well." In the bill of rights chapter of the Constitution of South Africa, it is stated that everyone has the right: (a) to an environment that is not harmful to their health or well-being; and (b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that prevent pollution and ecological degradation, promote conservation and secure ecologically sustainable development and use of natural resources, while promoting justifiable economic and social development.

31. Some States have also included procedural environmental rights in their constitutions, such as the rights to receive information, to participate in decision-making about environmental matters and to obtain access to the justice system if the right to a healthy environment is being violated or threatened.

32. Also at the national level, more than 100 States have enacted legislation that specifically identifies and articulates the right to a healthy environment, including both procedural and substantive elements. Examples include the National Environment Protection Act of Bhutan of 2007, in which it is succinctly stated that "a person has the fundamental right to a safe and healthy environment with equal and corresponding duty to protect and promote the environmental well-being of the country". The Environmental Code of France refers to "the individual's right to a healthy environment" (art. L110-2), "the recognized right of all to breathe air which is not harmful to health" (art. L220-1) and comprehensive rights related to environmental information, public participation and access to justice. In the Clean Air Act of the Philippines of 1999, section 4 offers more detailed provisions setting forth the substantive right to breathe clean air, as well as procedural rights to be informed of environmental hazards such as air pollution, to participate in environmental

[10] See David R. Boyd, "Catalyst for change: evaluating forty years of experience in implementing the right to a healthy environment", in *The Human Right to a Healthy Environment*, John H. Knox and Ramin Pejan, eds. (Cambridge, Cambridge University Press, 2018). See also David R. Boyd, *The Environmental Rights Revolution: A Global Study of Constitutions, Human Rights, and the Environment* (Vancouver, UBC Press, 2012); and James R. May and Erin Daly, *Global Environmental Constitutionalism* (Cambridge, Cambridge University Press, 2015.

decision-making and to bring actions in court to compel the rehabilitation and clean-up of contaminated areas.

33. At the regional level, human rights agreements drafted after the 1970s have also included the right to a healthy environment. The African Charter on Human and Peoples' Rights of 1981 provides that "all peoples shall have the right to a general satisfactory environment favourable to their development" (art. 24). In the 1988 Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador), it is stated that "everyone shall have the right to live in a healthy environment" (art. 11, para. 1). In 2003, the African Union adopted the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, in which it is stated that women shall have "the right to live in a healthy and sustainable environment" (art. 18) and "the right to fully enjoy their right to sustainable development" (art. 19). The Arab Charter on Human Rights of 2004 includes the right to a healthy environment as part of the right to an adequate standard of living that ensures well-being and a decent life (art. 38). Similarly, the Human Rights Declaration adopted by the Association of Southeast Asian Nations in 2012 incorporates a "right to a safe, clean and sustainable environment" as an element of the right to an adequate standard of living (para. 28 (f)).

34. Also at the regional level, the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) of 1998, drafted under the auspices of the Economic Commission for Europe, refers to "the right of every person of present and future generations to live in an environment adequate to his or her health and well-being" (art. 1). Finally, the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), concluded and opened for signature in 2018, is a regional agreement similar to the Aarhus Convention but covering Latin America and the Caribbean. One of the objectives of the Escazú Agreement is "contributing to the protection of the right of every person of present and future generations to live in a healthy environment and to sustainable development" (art. 1). The agreement also requires that "each Party shall guarantee the right of every person to live in a healthy environment" (art. 4). The above-mentioned regional human rights agreements and environmental treaties, all explicitly recognizing the right to a healthy environment, have been ratified by more than 130 States to date.

35. At both the regional and national levels, human rights commissions and courts have played an active role in defining the scope of the right to a healthy environment and the corresponding obligations upon Governments. The African Commission on Human and Peoples' Rights produced a ground-breaking decision in 2001 in a case involving pollution caused by the oil industry that violated the Ogoni people's right to a healthy environment under the African Charter. The Commission determined that Governments have clear obligations "to take reasonable and other measures to prevent pollution and ecological degradation, to promote conservation, and to secure an ecologically sustainable development and use of natural resources".[11] In 2017, the Inter-American Court of Human Rights ruled that the right to a healthy environment under the Protocol of San Salvador protects individuals and collectives, including future generations, and can be used to hold States responsible for cross-border violations that are within their "effective control".[12] The Inter-American Court stated that: "Environmental damage can cause irreparable damage to human beings. As such, a healthy environment is a fundamental right for the existence of humanity." Although

[11] African Commission on Human and Peoples' Rights, *Social and Economic Rights Action Centre and Centre for Economic and Social Rights v. Nigeria*, para. 52.

[12] Inter-American Court of Human Rights, Advisory Opinion, OC-23-17, 15 November 2017.

the Convention for the Protection of Human Rights and Fundamental Freedoms does not include any explicit references to the environment, the jurisprudence of the European Court of Human Rights has repeatedly referred to the right to a healthy environment. For example, in a case involving the dangers of using sodium cyanide for gold mining in Romania, the European Court concluded that the State's failure to take positive steps to prevent an environmental disaster violated the rights to life, private and family life and, more generally, to the enjoyment of a healthy and protected environment.[13] Similarly, the European Committee of Social Rights has interpreted the right to protection of health in article 11 of the European Social Charter to include an implicit right to a healthy environment.[14]

36. Taking into consideration the ratification of regional human rights agreements and environmental treaties, constitutions and national legislation, more than 150 States have already established legal recognition of the right to a healthy environment, with corresponding obligations. Many additional States have signed non-binding international declarations that explicitly incorporate the right to a healthy environment, including the Stockholm Declaration of 1972 and the Malé Declaration on the Human Dimension of Climate Change of 2007. In total, 155 States have a binding legal obligation to respect, protect and fulfil the right to a healthy environment, while 36 States have expressed their support for the right to a healthy environment through non-binding international declarations.[15] In many States, however, there is a large gap between the legal recognition or expression of support for this right and the implementation of measures to effectively respect, protect, fulfil and promote this right.

IV. United Nations recognition of the human right to a safe, clean, healthy and sustainable environment

37. The time has come for the United Nations to formally recognize the human right to a safe, clean, healthy and sustainable environment, or, more simply, the human right to a healthy environment. It is understandable that the central United Nations human rights instruments — the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights — do not include an explicit right to a healthy environment. They were drafted and adopted before the modern environmental movement raised awareness of the breadth and depth of the environmental challenges facing humanity. Today, however, it is beyond debate that human beings are wholly dependent on a healthy environment in order to lead dignified, healthy and fulfilling lives. The ecological systems, biological diversity and planetary conditions that are the vital foundations of human existence are under unprecedented stress. Were the Universal Declaration of Human Rights to be drafted today, it is hard to imagine that it would fail to include the right to a healthy environment, a right so essential to human well-being and so widely recognized in national constitutions, legislation and regional agreements.

38. States may be understandably reluctant to recognize a "new" human right if its content appears to be uncertain or its implications seem unclear. One of the primary purposes of the decision of the Human Rights Council to establish this mandate,

[13] European Court of Human Rights, *Tatar v. Romania*, Application No. 67021/01, Judgment, 27 January 2009, paras. 107 and 112.

[14] See European Committee of Social Rights, *Marangopoulos Foundation for Human Rights* v. *Greece*, Complaint No. 30/2005, Decision on the Merits, 6 December 2006, para. 195.

[15] The only exceptions among the 193 States Members of the United Nations are the Democratic People's Republic of Korea and Oman.

beginning in 2012, was to clarify what human rights law requires with respect to environmental protection. As the extensive reports of the Special Rapporteur forcefully demonstrate, the human right to a healthy environment is not an empty vessel waiting to be filled; on the contrary, its content has already been exhaustively discussed, debated, defined and clarified over the past 45 years.

39. Recognition of the right to a healthy environment by the United Nations would not only be consistent with the state of the law in most of the world, but would also provide a series of important and tangible benefits. It would raise awareness of and reinforce the understanding that human rights norms require protection of the environment and that environmental protection depends on the exercise of human rights. It would highlight that environmental protection must be assigned the same level of importance as other interests that are fundamental to human dignity, equality and freedom. It would also help to ensure that human rights norms relating to the environment continue to develop in a coherent, consistent and integrated manner. Recognition of the right to a healthy environment by the United Nations would complement, reinforce and amplify the regional and national norms and jurisprudence developed over the past 45 years.[16]

40. Examining experience at the national level demonstrates the many advantages of formal recognition of this right. Recognition of the right to a healthy environment in national constitutions has raised the profile and importance of environmental protection and provided a basis for the enactment of stronger environmental laws, standards, regulations and policies. At least 80 States enacted stronger environmental laws in direct response to the incorporation of the right to a healthy environment into their national constitutions. In States including Argentina, Brazil, Colombia, Costa Rica, France, Portugal, South Africa and Spain, the right to a healthy environment is one of the fundamental principles shaping, strengthening and unifying the entire body of environmental law. In India, Nepal and Uganda, the right to a healthy environment has been used to fill legislative or regulatory gaps related to air pollution, plastic pollution and forest conservation.

41. Recognition of the right to a healthy environment enables individuals, government agencies, communities, indigenous peoples, civil society organizations and the judiciary to contribute to improved implementation and enforcement of environmental laws and, concurrently, greater respect for human rights. When applied by the judiciary, constitutional environmental rights have helped to provide a safety net to protect against gaps in statutory laws, created opportunities for better access to justice and, most importantly, contributed to stopping or preventing human rights violations. Courts in many States are increasingly applying the right, as is illustrated by the interest in the regional judicial workshops held by UNEP and the Special Rapporteur. Thousands of cases decided by courts in more than 50 States have involved alleged violations of the right to a healthy environment over the past four decades. An impressive example comes from Costa Rica, where the constitutional recognition of the right to a healthy environment in 1994 contributed to a significant increase in the implementation and enforcement of environmental laws. In cases involving solid waste, sewage treatment, air pollution, groundwater and endangered species, the Constitutional Court has protected the right to a healthy environment and ruled that it includes a number of key principles, including the precautionary, polluter-pays and intergenerational equity principles.

42. Recognition of the right to a healthy environment has also contributed to substantial increases in the role of the public in environmental governance. People and organizations are empowered by the procedural elements of this right, including

[16] See John H. Knox and Ramin Pejan, eds., *The Human Right to a Healthy Environment* (Cambridge, Cambridge University Press, 2018).

access to information, participation in decision-making and access to justice. In many nations that recogniz the right to a healthy environment, legislative processes, administrative procedures and courthouse doors are now open to citizens seeking to protect both their individual right to a healthy environment and society's collective interest in a healthy environment. According to the Environmental Democracy Index, Colombia, Latvia, Lithuania and South Africa are among the global leaders in enhancing access to justice to protect human rights, including the right to a healthy environment.[17] The Philippines has developed special rules of procedure for environmental litigation, which are specifically intended to facilitate protection of the right to a healthy environment.

43. Recognition of the right to a healthy environment has been a catalyst for national laws related to environmental education in States including Armenia, Brazil, the Philippines and the Republic of Korea. In addition, extensive efforts have been made by international agencies and the Special Rapporteur to educate judges, enforcement agencies, prosecutors and other groups involved in the implementation and enforcement of environmental laws about the right to a healthy environment.

44. The ultimate test in evaluating the right to a healthy environment is whether it contributes to healthier people and healthier ecosystems. The evidence in this regard is strikingly positive. One study concluded that nations with the right to a healthy environment in their constitutions have smaller ecological footprints, rank higher on comprehensive indices of environmental indicators, are more likely to ratify international environmental agreements and have made faster progress in reducing emissions of sulphur dioxide, nitrogen oxides and greenhouse gases than nations without such provisions.[18] A second analysis, published in 2016 by two economists, determined that constitutional environmental rights have a positive causal influence on environmental performance.[19] A third study, also published in 2016, found that constitutional environmental rights are positively related to increases in the proportion of populations with access to safe drinking water.[20] Other studies have also found positive effects flowing from constitutional recognition of environmental rights.[21] In other words, as a result of the legal recognition of their right to a healthy environment, many millions of people are breathing cleaner air, have gained access to safe drinking water, have reduced their exposure to toxic substances and are living in healthier ecosystems.

45. Of particular importance are the positive effects of the recognition of the right to a healthy environment on vulnerable populations, including women, children, persons living in poverty, members of indigenous peoples and traditional communities, older persons, persons with disabilities, minorities and displaced persons. Respecting and fulfilling the right to a healthy environment should ensure a minimum level of environmental quality for all members of society, consistent with international standards, with a particular emphasis on those populations that currently shoulder a disproportionate share of the burden of pollution and other environmental harms or that do not enjoy adequate access to essential environmental goods and services, such as

[17] See https://environmentaldemocracyindex.org/rank-countries#all.

[18] See David R. Boyd, *The Environmental Rights Revolution*.

[19] Christopher Jeffords and Lanse Minkler, "Do constitutions matter? The effects of constitutional environmental provisions on environmental outcomes", *Kyklos*, vol. 69, No. 2 (April 2016), pp. 294–335.

[20] Christopher Jeffords, "On the temporal effects of static constitutional environmental rights provisions on access to improved sanitation facilities and water sources", *Journal of Human Rights and the Environment*, vol. 7, No. 1 (March 2016), pp. 74–110.

[21] Joshua C. Gellers and Christopher Jeffords, "Toward environmental democracy? Procedural environmental rights and environmental justice", *Global Environmental Politics*, vol. 18, No. 1 (February 2018), 99–121.

safe water and adequate sanitation. A leading example is the progress made in respecting the right to a healthy environment of impoverished communities in the heavily polluted Matanza-Riachuelo watershed in Argentina following a powerful decision of the Supreme Court of Argentina in 2008. After confirming that the citizens' constitutional right to a healthy environment had been violated by extensive industrial pollution, the court ordered all levels of government and relevant businesses to undertake comprehensive remedial action, including pollution abatement, environmental remediation and clean-up, and infrastructure improvements. A decade after the court's decision, there have been substantial improvements in environmental quality (air, water and soil), and new drinking water and wastewater treatment infrastructure has been constructed. While the environmental problems facing the residents of this long-standing pollution hotspot are not completely solved, the extent of progress is impressive. It is worth noting that, in nations facing severe challenges with the rule of law or extreme poverty, the right to a healthy environment, like many human rights, is less likely to make a significant tangible impact on people's lives.

46. On the basis of the extensive experience with the right to a healthy environment and its critical importance in protecting human rights threatened by the multiple current environmental challenges, the Special Rapporteur recommends that the General Assembly recognize the right in a global instrument. One possible vehicle for such recognition would be a new international treaty. The Special Rapporteur notes that, in 2017, the Government of France presented for consideration a global pact for the environment, in which it is stated, in article 1, that "every person has the right to live in an ecologically sound environment adequate for their health, well-being, dignity, culture and fulfilment". In May 2018, the General Assembly adopted resolution 72/277, entitled "Towards a Global Pact for the Environment", in which it established an ad hoc open-ended working group to discuss possible options to address gaps in international environmental law and environment-related instruments. If necessary, the working group will discuss the scope, parameters and feasibility of an international instrument and make recommendations to the Assembly, which may include the convening of an intergovernmental conference to adopt such an international instrument during the first half of 2019. An instrument resulting from this process certainly could and should include recognition of the human right to a healthy environment.

47. A second option would involve the development of an additional protocol to an existing human rights treaty. For example, the right to a safe, clean, healthy and sustainable environment could be the focus of an optional protocol to the International Covenant on Economic, Social and Cultural Rights. This would be a logical choice in view of the fact that many national constitutions incorporate the right to a healthy environment into the same chapter as economic, social and cultural rights. A second optional protocol to the International Covenant on Economic, Social and Cultural Rights recognizing the right to a healthy environment, as an issue-specific instrument, would be comparable to the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty. Furthermore, the individual complaints mechanism established by the recent Optional Protocol to the International Covenant on Economic, Social and Cultural Rights could provide an important forum for addressing alleged human rights violations caused by environmental degradation.

48. A third and potentially more expeditious approach would be for the General Assembly to adopt a resolution focused on the right to a healthy environment. A model could be the resolution in which the Assembly recognized the rights to water and sanitation, which, like the right to a healthy environment, were not explicitly recognized in United Nations human rights treaties but are clearly necessary to the full enjoyment of human rights. In 2010, in its resolution 64/292, the Assembly

recognized the rights to safe and clean drinking water and sanitation as human rights that are essential for the full enjoyment of life and all human rights. The content of the rights to water and sanitation had been addressed in detail by the Committee on Economic, Social and Cultural Rights and the first Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Catarina de Albuquerque, before the Assembly acted in 2010.

49. Through any of the foregoing mechanisms, which are not mutually exclusive, recognition of the right to a safe, clean, healthy and sustainable environment by the United Nations would serve as acknowledgement that the right to a healthy environment must be universally protected (rather than subject to the current patchwork of protection measures), serve as an impetus for more nations to incorporate this right into their constitutions and legislation and potentially provide a mechanism for increased accountability where national governments violate or fail to protect this vital human right. Global recognition of the right to a healthy environment would also result in new reporting requirements (e.g., as part of the universal periodic review of the Human Rights Council) that would further raise the profile of this issue both politically and publicly. It would also support and advance the work of UNEP through its recently launched environmental rights initiative.

50. The proposal to recognize the right to a healthy environment meets the procedural and substantive requirements that have been established over time by the General Assembly to govern the proclamation of new human rights within the United Nations system. In 1986, the Assembly, in paragraph 4 of its resolution 41/120, adopted guidelines indicating that new human rights instruments should:

(a) Be consistent with the existing body of international human rights law;

(b) Be of fundamental character and derive from the inherent dignity and worth of the human person;

(c) Be sufficiently precise to give rise to identifiable and practicable rights and obligations;

(d) Provide, where appropriate, realistic and effective implementation machinery, including reporting systems;

(e) Attract broad international support.

51. Each of these five requirements has clearly been met.[22] The links between a healthy environment, human dignity and human rights have been recognized since the adoption of the Stockholm Declaration in 1972. Extensive experience with the right to a healthy environment has been gained at the national and regional levels over four decades. In his previous reports, including his mapping reports,[23] the Special Rapporteur catalogued the large and strikingly consistent body of norms, principles and obligations governing the relationship between human rights and environmental degradation that has been developed by treaty bodies, the Human Rights Council, special procedures and regional human rights tribunals. The Council has provided a useful platform for intergovernmental discussions since 2011, when it requested, in its resolution 16/11, OHCHR to prepare a study on human rights and the environment. UNEP and OHCHR have provided expert advice on technical matters related to the right to a healthy environment since 2002, including through expert seminars, high-level meetings, side events at international forums and high-quality publications. In

[22] See Marcos Orellana, "Quality control of the right to a healthy environment", in *The Human Right to a Healthy Environment*, John H. Knox and Ramin Pejan, eds. (Cambridge, Cambridge University Press, 2018).

[23] Available at www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/MappingReport.aspx.

summary, enough preparatory work has been completed. There has been a rich and comprehensive analysis of the elements, implications and obligations related to the right to a healthy environment. This analysis has been complemented by broad, long-standing consultations and political discussions involving Governments, international and intergovernmental organizations and civil society.

52. The recognition by the United Nations of a universal right to a safe, clean, healthy and sustainable environment would be very timely in view of the multiple ecological challenges facing the world. The World Health Organization reports that nearly one quarter of the global burden of disease is caused by exposure to environmental hazards in the air we breathe, the water we drink, the food we eat and the buildings and communities in which we live.[24] Despite the Paris Agreement, global emissions of greenhouse gases continue to rise, exacerbating the present and future impacts of climate change on human well-being. Despite the Convention on Biological Diversity, growing numbers of species are becoming endangered and extinct, with grave consequences for human rights and well-being. Although recognition of the right to a healthy environment is not a silver bullet that will solve these problems overnight, it will empower and inspire people throughout the world.

V. Conclusions and recommendations

53. **The relationship between human rights and the environment has evolved rapidly over the past five decades, and even more so over the past five years. The greening of well-established human rights, including the rights to life, health, food, water, housing, culture, development, property and home and private life, has contributed to improvements in the health and well-being of people across the world. However, work remains to be done to further clarify and, more importantly, implement and fulfil the human rights obligations relating to a safe, clean, healthy and sustainable environment. Of paramount importance in this regard is the legal recognition of the right to a healthy environment at the global level, so that this fundamental human right can be enjoyed by all persons in all States, rather than in the subset of countries where it is currently recognized. The global recognition of this right would fill a glaring gap in the architecture of international human rights.**

54. **There can be no doubt that the right to a healthy environment is a moral right, essential to the health, well-being and dignity of all human beings. However, to ensure that this right is respected, protected and fulfilled, it requires legal protection. Tremendous progress has been made in this regard over the past four decades. The right to a healthy environment enjoys constitutional protection in more than 100 States. It is incorporated into the environmental legislation of more than 100 States. This right is included in regional human rights treaties and environmental treaties ratified by more than 130 States. In total, 155 States have already established legal recognition of the right to a healthy environment. Recognition of the right to a healthy environment by the United Nations would not only make this right universal in application but would also serve as a catalyst for the implementation of stronger measures to effectively respect, protect, fulfil and promote this right.**

55. **National and regional experiences demonstrate the potential benefits of recognizing the right to a healthy environment, namely:**

[24] World Health Organization, *Preventing Disease Through Healthy Environments: A Global Assessment of the Burden of Disease from Environmental Risks* (Geneva, World Health Organization, 2016).

- **Stronger environmental laws and policies**
- **Improved implementation and enforcement**
- **Greater public participation in environmental decision-making**
- **Reduced environmental injustices**
- **A level playing field with social and economic rights**
- **Better environmental performance**

56. **The evidence presented in the present report clearly demonstrates that legal recognition of the right to a healthy environment in some States has contributed to cleaner air, safer water and healthier ecosystems. These benefits are vitally important to vulnerable populations, including women, children, persons living in poverty, members of indigenous peoples and traditional communities, older persons, persons with disabilities, minorities and displaced persons.**

57. **The Special Rapporteur therefore strongly recommends that Member States expedite the consideration of the three options outlined in paragraphs 46 to 48 of the present report for global recognition of the right to a safe, clean, healthy and sustainable environment. The three options are a new international treaty, such as the proposed global pact for the environment, a new optional protocol to the International Covenant on Economic, Social, and Cultural Rights and a General Assembly resolution focused on the right to a healthy environment. In view of the major global environmental problems that are currently causing tremendous hardship for many millions of people throughout the world, this ought to be a matter of the utmost urgency for the General Assembly.**

58. **In the meantime, the Special Rapporteur also recommends that all States dedicated to protecting the health of both humans and the ecosystems on which the well-being of humans depends move expeditiously to incorporate the right to a healthy environment into their constitutional, legal and policy frameworks. States in Latin America and the Caribbean should promptly sign and ratify the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), while other States should consider becoming parties to the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention).**

59. **The Special Rapporteur is honoured to be part of an extensive global movement of people dedicated to the essential tasks of defending human rights and protecting the environment. In every country and every community there are women and men, girls and boys, courageously speaking out and taking action. They understand the intimate and indivisible relationship between human rights and the environment, as well as the fundamental reliance of humans on healthy ecosystems for life, well-being and dignity. They need and deserve the support of Governments, international institutions, national human rights institutions, businesses, judiciaries and civil society organizations. The recognition by the United Nations of a universal right to a healthy environment would be a profoundly meaningful way to empower, energize and inspire their continued efforts. Given the importance of clean air, safe water, healthy ecosystems and a stable climate to the ability of both current and future generations to lead healthy and fulfilling lives, global recognition of the right to a safe, clean, healthy and sustainable environment should be regarded as an urgent moral imperative.**

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Item 84 of the preliminary list*
Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives

Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives

Report of the Secretary-General

Summary

Twelve States submitted reports pursuant to paragraph 10 of General Assembly resolution 71/145 by the established deadline (see section II of the present report).

Six views were received from States pursuant to paragraph 12 of General Assembly resolution 71/145 (see section III).

Five additional States became participants to the instruments relevant to the protection, security and safety of diplomatic and consular missions and representatives (see section IV) since the previous report (A/71/130) on the topic.

* A/73/50.

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I. Introduction

1. On 13 December 2016, the General Assembly adopted resolution 71/145, entitled "Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives". Paragraphs 10, 12 and 13 of the resolution read as follows:

> "*The General Assembly*,
>
> ...
>
> "10. *Urges*:
>
> (*a*) All States to report to the Secretary-General, in a concise and expeditious manner and in accordance with the guidelines prepared by the Secretary-General, serious violations of the protection, security and safety of diplomatic and consular missions and representatives as well as missions and representatives with diplomatic status to international intergovernmental organizations;
>
> (*b*) The State in which the violation took place — and, to the extent possible, the State where the alleged offender is present — to report to the Secretary-General, in a concise and expeditious manner and in accordance with the guidelines prepared by the Secretary-General, on measures taken to bring the offender to justice and to communicate, in accordance with its laws, the final outcome of the proceedings against the offender, and to report on measures adopted with a view to preventing a repetition of such violations;
>
> ...
>
> "12. *Also requests* the Secretary-General to invite States, in the circular note referred to in paragraph 11 (*a*) above, to inform him of their views with respect to any measures needed or already taken to enhance the protection, security and safety of diplomatic and consular missions and representatives as well as missions and representatives with diplomatic status to international intergovernmental organizations;
>
> "13. *Further requests* the Secretary-General to submit to the General Assembly at its seventy-third session a report containing:
>
> (*a*) Information on the state of ratification of and accessions to the instruments referred to in paragraph 8 above;
>
> (*b*) A summary of the reports received and views expressed pursuant to paragraphs 10 and 12 above."

2. By notes dated 16 January 2017 and 9 March 2018, the Secretary-General drew the attention of States to the request contained in paragraphs 10 (*a*) and 12 of resolution 71/145 and invited them to report to the Secretary-General any serious violations of the protection, security and safety of diplomatic and consular missions and representatives as well as missions and representatives with diplomatic status to international intergovernmental organizations, and to inform the Secretary-General of their views with respect to any measures needed or already taken to enhance the protection, security and safety of diplomatic and consular missions and representatives as well as missions and representatives with diplomatic status to international intergovernmental organizations.

3. The present report has been prepared pursuant to paragraph 13 of resolution 71/145.

4. Section II of the report contains a summary of the reports received and the text of those reports relevant to paragraph 10 of the resolution, in chronological order of receipt.

5. Section III of the report contains the views expressed pursuant to paragraph 12 of the resolution, also in chronological order of receipt.

6. Section IV of the report contains information on the status of participation of States, as at 18 June 2018, in the Vienna Convention on Diplomatic Relations of 1961,[1] the Vienna Convention on Consular Relations of 1963,[2] and the respective optional protocols thereto, as well as the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents.[3]

II. Reports received from States pursuant to paragraph 10 of General Assembly resolution 71/145

7. The **Islamic Republic of Iran** (21 September 2016) submitted the following information on incidents pertaining to the premises of the Consulate General and Embassy of Saudi Arabia in Mashhad and Tehran:[4]

> As previously reported on 4 January 2016, following the release of news on the execution of the prominent religious leader Ayatollah Sheikh Bagher Nimr Al-Nimr by the Saudi authorities, there was an emotional outburst by many who found this action inhumane and unjustifiable in front of the consular and diplomatic premises of the Kingdom of Saudi Arabia in Mashhad and Tehran. The security sectors in Iran demonstrated due diligence to prevent the incident and have taken the necessary practical measures. To that effect, the number of security and law enforcement forces were increased substantially, and different organs, including the diplomatic police, were engaged in controlling the situation. The sudden spontaneous and uncontrollable reactions by the crowd, however, caused some damage to the buildings of the Saudi diplomatic premises, despite extensive efforts. Fortunately, no harm was done to the personnel and staff of the diplomatic and consular premises.
>
> Following the incidents, necessary arrangements were made to facilitate the act of leaving the country by all the Saudi diplomatic personnel, pursuant to article 44 of the 1961 Vienna Convention on Diplomatic Relations. At the same time, consistent with the obligations of the receiving State in case of severance of diplomatic relations between the two States under article 45 (a) of the Convention, the Islamic Republic of Iran made necessary attempts to ensure protection of, and respect for, the Saudi diplomatic and consular premises, property and archives. Hence, Saudi agents were provided facilities to take care of the archives and documents left at the diplomatic and consular premises.
>
> In this context, necessary arrangements were also put in place to advance the prosecution of those persons involved in inflicting damage to the Saudi premises in Mashhad and Tehran. The Ministry of Interior and the Judiciary opened a thorough investigation into the incidents. More specifically, immediately following the incident, 121 individuals suspected of being involved in the incident, and thus disrupting the public order and causing damage to the Saudi premises, were arrested, and a further 24 individuals were summoned to

[1] United Nations, *Treaty Series*, vol. 500, No. 7310.
[2] Ibid., vol. 596, No. 8638.
[3] Ibid., vol. 1035, No. 15410.
[4] Submitted pursuant to paragraph 10 of General Assembly resolution 69/121.

finalize the investigations. Indictments were also issued for 48 individuals, and the trials are currently under way.

A formal request has also been sent to the Saudi Government to grant access to the Iranian Judiciary to carry out an on-site visit to the premises to further complete the investigation process. The Islamic Republic of Iran reiterates its readiness to facilitate the presence of a Saudi mission to assess the damage incurred as the result of the incident.

Reiterating its obligations in accordance with international law and relevant international instruments, especially the Vienna Convention on Diplomatic Relations of 1961 and the Vienna Convention on Consular Relations of 1963, the Islamic Republic of Iran is determined to take all efforts needed to hold those responsible for the incident accountable.

8. **Ukraine** (21 December 2016) reported a number of incidents concerning its diplomatic and consular missions and representatives in the Pussian Federation:

On 26 February 2014, unauthorized picketing by group of up to 10 people firing flares attacked the guest house of the Embassy of Ukraine to the Russian Federation (accommodation of the staff). One attacker was detained by the external security of the Embassy.

On 17 March 2014, there was an attack on the Embassy of Ukraine to the Russian Federation. Three fired flares, and leaflets of the "Another Russia" party were thrown into the territory of the Embassy. Five attackers were detained by the external security of the Embassy.

On 12 June 2015, there was unauthorized picketing of the Embassy of Ukraine to the Russian Federation by a group of up to 120 people throwing eggs into the fence and territory of the Embassy. No reaction was received from the law enforcement agencies.

On 13 June 2015, at 1 a.m., about 50 people attacked the Consulate General of Ukraine in Rostov-on-Don, Russian Federation, causing serious damage to the facade and backyard of the diplomatic mission. Attackers disturbed the identification plate and information board, damaged computers and office equipment, threw garbage, bottles of brilliant green and eggs into the building, and 17 of 25 windows of the Consulate were broken. The morning after, a rally against the Ukrainian authorities took place near the damaged Consulate General of Ukraine in Rostov-on-Don.

On 6 March 2016, there was unauthorized picketing of the Embassy of Ukraine to the Russian Federation by a group of up to 120 people throwing eggs into the fence and territory of the Embassy. No reaction was received from the law enforcement agencies.

On 8 March 2016, unknown persons threw firebombs at the Consulate General of Ukraine in St. Petersburg building, creating a threat of arson. Leaflets of the "Another Russia" party with threats against the institution and its staff were thrown into the territory of the Consulate General.

On 13 March 2016, three drunken persons were detained by the external security of the Embassy of Ukraine to the Russian Federation after a can of beer was thrown into the territory of the Embassy.

On 17 March 2016, Consul General of Ukraine in Rostov-on-Don, Mr. Kovtun, was attacked in Grozny (Chechnya) upon arrival at the local court.

On 5 May 2016, during a rally (around 50 people participated) against the Consulate General of Ukraine in St. Petersburg, organizers shouted through

loudspeakers threats to the life and health of workers of the Consulate. Following these threats, a member of the organization "Veterans of novorossia" attempted to attack Consul O. Kopyl. This attack was stopped by the timely intervention of a policeman on duty near the building of the Consulate. In addition, eggs and paint were thrown on the territory and into the building of the Consulate.

On 11 June 2016, unauthorized picketing by a group of up to 50 people firing flares attacked the Embassy of Ukraine to the Russian Federation by throwing eggs and tomatoes into the fence of the Embassy. No reaction was received from the law enforcement agencies.

On 15 August 2016, under the guise of a false pretext, Russian public service workers blocked the work of the Consulate General of Ukraine in Rostov-on-Don.

On 27 August 2016, a group of radicals of up to 50 people firing flares committed an attack on the Embassy of Ukraine to the Russian Federation, throwing eggs and tomatoes into the fence of the Embassy.

On 19 September 2016, a group of unidentified persons threw paint into the building of the Consulate General of Ukraine in St. Petersburg. As a result of such actions, its façade was damaged. There was also an attempt to commit an act of vandalism against the national symbol of Ukraine, the State flag.

On 22 November 2016, a group of young radicals attacked the premises of the Cultural Centre of Ukraine in Moscow and committed a desecration of State symbols of Ukraine, the national flag.

The inaction of the law enforcement bodies of the Russian Federation during these illegal actions indicates their planned and apparently sanctioned provocative nature.

9. **Turkey** (13 March 2017) reported that the following incidents occurred in the Netherlands:

I.

On 11 March 2017, at 7 p.m. local time, H.E. Ms. Fatma Betül Sayan Kaya, Minister of Family and Social Policies of the Republic of Turkey, was barred by the Dutch law enforcement authorities from accessing the Consulate General of the Republic of Turkey in Rotterdam, where the Minister was scheduled to meet with Turkish citizens in the Netherlands as well as with the Consul General. The passports of the Minister and of the other members of the delegation were confiscated by the Dutch police.

On the same day, the Dutch police, resorting to disproportionate use of force, intervened in the vehicle belonging to the Embassy of Turkey in The Hague carrying the Minister. The Minister, holder of a diplomatic passport, was forcibly led by the Dutch police to a police station in the town of Nijmegen, near the border between the Netherlands and Germany, where she was been detained in the police station for approximately 90 minutes, after which she was forcibly driven to the German border by the Dutch police. Throughout her journey, the Minister was prevented from contacting any Turkish diplomatic or consular representative.

II.

The Consul General of Turkey in Rotterdam as well as other personnel of the Consulate have been barred from exiting the premises of the Consulate to greet the Minister.

These actions are in contravention of diplomatic courtesy, as well as the fundamental principles of international customary law, and constitute a violation of articles 5 and 36 of the Vienna Convention on Consular Relations relating to the facilitation of the exercise of consular functions.

III.

The Chargé d' affaires a.i. of the Embassy of Turkey in The Hague, the Consul General of Turkey in Deventer and two administrative and technical officers were subjected to forced body searches and brought to a police station in Rotterdam by the Dutch police.

Despite the intervention of the Ministry of Foreign Affairs of the Republic of Turkey, the Chargé d'affaires was detained in an individual cell for approximately one hour, the Consul General in Deventer for 40 minutes and the administrative and technical officers for two hours, during which all their belongings were confiscated. These detentions in individual cells as well as the restrictions of freedom of movement represent flagrant violations of articles 22, 26, 29 and 37 of the Vienna Convention on Diplomatic Relations and articles 5, 34, 36, 40, 41 and 43 of the Vienna Convention on Consular Relations.

10. **Qatar** (16 March 2018) reported that the following incident occurred in Somalia:

On Saturday, 14 October 2017, at 3:20 p.m. local time, an immense explosion shook the Somali capital, Mogadishu. The bombing was the most violent and the gravest such attack since 2007, and was executed with a truck loaded with explosives near the entrance of the Safari Hotel in the Hodan District, which is a vital part of the capital Mogadishu. The bombing produced a black cloud, which could be seen throughout the city. It devastated the entire area and caused massive material damages, resulting in the destruction of buildings and burning of vehicles. It devastated the Safari Hotel, at Zope intersection, causing it to completely collapse. This was in addition to the massive damages to the area surrounding the explosion.

As a result of this bombing, the Embassy of the State of Qatar in Mogadishu, which is located one kilometre from the site of the bombing, sustained massive material damages, as most of the windows of the Embassy building were smashed and some walls demolished. The Chargé d'affaires suffered minor injuries, while two children of an employee of his were killed at the site of the bombing. In addition, the office of the Al-Jazeera network suffered great damage.

No party has declared responsibility for the bombing, but the federal Government blamed the Harakat al-Shabaab al-Mujahideen for it. Later, the Minister of Interior Security announced that five individuals had been arrested for being involved in the terrorist bombing in Mogadishu on 14 October 2017.

11. **Germany** (11 April 2018) reported that the following incidents occurred in Afghanistan and Liberia:

1. Attack on the German Consulate General in Mazar-e-Sharif, Afghanistan

In the night, from 10 to 11 November 2016, there was a complex attack against the German Consulate General in Mazar-e-Sharif. Following an explosion at the perimeter wall, armed perpetrators stormed into the Consulate General, engaged in an exchange of fire with its security officers and attempted to cause the greatest possible harm to those present. After about one hour, the NATO forces alerted by the Consulate General intervened and evacuated the

consular staff to Camp Marmal over the course of the night. The premises used by the German Consulate General were destroyed to such an extent during the attack that the property had to be abandoned.

Despite several warnings, the receiving State failed to adequately protect the local consular post commensurate with the threat level and in accordance with article 31 of the Vienna Convention on Consular Relations of 24 April 1963. Furthermore, in the wake of the attack, the receiving State failed to prevent the compound from being looted, while the police stood by, and the subsequent sale of the staff's private property. The Federal Republic of Germany knows of the conviction of one perpetrator following the investigation instigated by the receiving State. As far as it knows, the perpetrator has the right to appeal.

2. Attack on the German Embassy in Kabul, Afghanistan

Shortly before 8.30 a.m. on 31 May 2017, there was a car bomb attack directly in front of the German Embassy in Kabul. None of the Embassy staff were killed. However, two Afghan staff members belonging to its security company as well as six Afghan police officers deployed to protect the Embassy died. The Embassy compound was largely destroyed in the attack and the reconstruction will be expensive and time-consuming. Staff members of the neighbouring embassies of other States were killed or injured, and embassy buildings were damaged. All in all, more than 160 people lost their lives.

Despite various warnings, the receiving State failed to effectively carry out security measures at the Ring of Steel checkpoints and thus to provide adequate protection commensurate with the threat level of the diplomatic missions in the Green Zone in accordance with article 22 of the Vienna Convention on Diplomatic Relations of 18 April 1961. The Federal Republic of Germany has not been informed of the outcome of the investigation instigated by the receiving State after the attack.

3. Attack on the official vehicle of the Deputy Head of Mission at the German Embassy in Monrovia, Liberia

At around 10:10 p.m. on 14 January 2018, an official vehicle belonging to the German Embassy in Monrovia, which was conveying the Deputy Head of Mission, was initially followed and then rammed from the side by a police vehicle, on the return journey from Robertsfield International Airport. The Embassy vehicle was damaged. After the police vehicle failed to stop, the Embassy vehicle was able to catch up with it, and the driver was subsequently confronted. It materialized that the driver was an armed police officer who was evidently conveying a private passenger in the official car. After the Liberian authorities had been informed of the incident, the Embassy received an apology and an assurance that it would be investigated.

By wilfully ramming the mission vehicle and risking injury to the Deputy Head of Mission, the police officer violated the immunity of the mission's vehicles guaranteed by article 22 (3) of the Vienna Convention on Diplomatic Relations as well as the principle of the inviolability of diplomats (article 29 of the Vienna Convention). The Federal Republic of Germany has not been informed of the outcome of the investigation instigated by the receiving State after the attack.

12. **Finland** (9 May 2018) submitted information concerning an incident on its own territory:

On 19 October 2017, two men trespassed on the fenced area of the Embassy of the Republic of Iraq in Helsinki with the intention to burn the

national flag of Iraq. The men managed to cut off the flag from the pole and escape. The men were subsequently seized and later sentenced to conditional imprisonment for grave breach of public peace. The Finnish authorities strengthened security procedures around the Embassy for some time.

13. **The Netherlands** (11 May 2018) submitted information concerning the incidents reported by Turkey on 13 March 2017:

The report of the Republic of Turkey concerns events surrounding the presence of the Turkish Minister of Family and Social Policy, Ms. Fatma Betül Sayan Kaya, on the territory of the Kingdom of the Netherlands on the evening of 11 March and the morning of 12 March 2017.

I.

After receiving information that Ms. Kaya intended to visit Rotterdam to meet with Dutch-Turkish citizens, the Kingdom of the Netherlands, in the exercise of its sovereign right to decide which persons are allowed to enter its territory for the exercise of official functions, informed the Government of the Turkish Republic that it would not permit any visits by Turkish ministers from that moment. Despite having informed the Turkish Republic accordingly, Ms. Kaya entered the territory of the Netherlands unannounced and covertly and proceeded towards the Turkish Consulate General in the city of Rotterdam, where she intended to deliver a public address. The Netherlands would also like to emphasize that Ms. Kaya entered the territory of the Kingdom of the Netherlands in her official capacity, and not as a private person.

The Netherlands wishes to point out, first, that Ms. Kaya enjoyed no privileges or immunities on the territory of the Netherlands under international law. She was not a member of the Turkish diplomatic or consular missions accredited to the Kingdom of the Netherlands and, second, that due to the lack of an official invitation of the Government of the Kingdom of the Netherlands, nor was she a member of a special mission under international law.

With regard to the complaint that Ms. Kaya was prevented from contacting any Turkish diplomatic or consular representative, the Netherlands wishes to draw the Secretary-General's attention to the following. General Assembly resolution 71/145 does not cover matters concerning receiving consular or diplomatic services, but only the protection of consular and diplomatic representatives. However, even if such matters would fall within its scope, Ms. Kaya was travelling in the car of the Turkish Chargé d'affaires to The Hague. Contact between her and this member of the Turkish diplomatic staff was thereby established.

In addition, the Netherlands would like to note that the Dutch police at all times intervened in accordance with the law, and hence in a proportionate manner, including in its treatment of all persons referred to in said report.

The part of the Turkish report under General Assembly resolution 71/145 insofar as it concerns Ms. Kaya, is therefore inapplicable, as her situation does not fall within the scope of the regime concerning diplomatic and consular missions and representatives.

II.

With regard to the part of the report of the Turkish Republic concerning the alleged prevention of the exercise of consular functions by the Consul General of the Republic of Turkey in Rotterdam, the Kingdom of the Netherlands wishes to point out that matters concerning the exercise of consular functions also do not fall within the scope of General Assembly resolution

71/145. This resolution concerns the protection, security and safety of consular missions, not their functioning. In addition, it has not been established that the Turkish Consulate General was at any time forced to deny a request for consular services as defined in article 5 of the Vienna Convention on Consular Relations. At no point was the Consul General prevented from leaving the premises.

III.

With regard to the part of the report of the Turkish Republic concerning the Turkish Chargé d'affaires a.i. at The Hague, the Turkish Consul General in Deventer and the two members of the technical and administrative staff, the Kingdom of the Netherlands would kindly draw the Secretary-General's attention to the following. Just before midnight, on orders from the Public Prosecutor, the members of the minister's entourage were arrested on suspicion of violating the Firearms, Ammunition and Offensive Weapons Act and were searched for firearms in order to secure the situation. No firearms were found. This group of 14 persons was then brought to the headquarters of the Rotterdam police. There it emerged that the Turkish Chargé d'affaires a.i. and the Turkish Consul General from Deventer were part of the group. As soon as this became clear, they were both released. The Kingdom of the Netherlands furthermore notes that both individuals were under a duty to comply with their respective obligations under the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations, in particular their obligation to respect the laws and regulations of the receiving State. At the location where both individuals were present, an emergency ordinance was in force at that moment.

The two members of the technical and administrative staff of the mission referred to in the report of the Turkish Republic are permanent residents of the Kingdom of the Netherlands and as such enjoy no inviolability or immunity under international law. Nonetheless, the Kingdom of the Netherlands would like to note that they were released shortly after they were taken to police headquarters.

The Kingdom of the Netherlands respectfully informs the Secretary-General that it considers that it has complied with its obligations under international law and has taken all measures that could have been reasonably expected to prevent a violation of its obligations under the two Vienna Conventions on 11 and 12 March 2017. For example, it had issued to all enforcement personnel present in the vicinity of the Turkish Consulate General in Rotterdam detailed lists with the names and functions of all members of the Turkish diplomatic and consular missions. In the light of the facts as stated above, the Netherlands considers that no further measures are required to prevent future violations of its obligations under the two Vienna Conventions. The Kingdom of the Netherlands furthermore reiterates that it takes its obligations under the Vienna Conventions very seriously.

14. The **Russian Federation** (17 May 2018) reported that the following incidents occurred in the United States of America:

1. The Russian Federation deems it necessary to draw the attention of the international community to the following deeply disturbing acts of the Government of the United States of America that are incompatible with its international commitments under the Charter of the United Nations and universally recognized norms of international diplomatic and consular law, and that call into question the declared commitment of the U.S. to the principles of justice and the rule of law.

2. The U.S. Government, referring to its sovereign prerogatives and national law (Foreign Missions Act of 1982 and the "determinations" of the U.S. Secretary of State adopted on its basis), from December 2016 to April 2018 took a range of provocative, hostile and coercive measures, unprecedented in their scope and cynicism, against a number of Russian official missions, their property, as well as the missions' staff and their family members. The measures sought to expel Russian official missions, the missions' staff and their family members from the premises they occupied on lawful grounds; to cause damage to the sovereign dignity of the Russian Federation and moral damage to the staff of its official missions; to disrupt the normal functioning of the diplomatic missions and consular establishments of the Russian Federation in the U.S.; and to deny the Russian Federation access to the property it used for sovereign purposes.

3. In this context, it is especially remarkable that the aforementioned repressive measures were aimed at the facilities used by the official missions of the Russian Federation to fulfil their functions not only as part of bilateral relations with the U.S. but also with the United Nations (see para. 4.2 below), which is incompatible with the functions of the United States as a receiving State of the headquarters of this international organization.

4. The official missions of the Russian Federation and their premises, raided and seized by the U.S. authorities, are listed below.

4.1. *Embassy of the Russian Federation*. Part of the Embassy's premises (115 Town Point Lane, Centreville, MD) used for official purposes, protocol events and as a residence of the Embassy's personnel.

4.2. *Permanent Mission of the Russian Federation to the United Nations in New York*. Part of the Permanent Mission's premises (136 Mill River Road, Upper Brookville, NY) used for official purposes, protocol events and as a residence of the Permanent Mission's personnel. The U.S. Department of State informed the Russian Embassy through the notes of 29 December 2016, Nos. 16-2027 and 16-2057 respectively, about the withdrawal of the consent to use the aforementioned facilities for diplomatic purposes; the lifting of all their privileges and immunities; and the denial of access to the aforementioned premises for "any persons, including Russian representatives" with effect from 30 December 2016.

4.3. *Consulate General of the Russian Federation in San Francisco*. Administrative and residential building (2790 Green Street, San Francisco, CA) and *residence of the Consul General of the Russian Federation* (2820 Broadway, San Francisco, CA). The U.S. Department of State announced through a note of 31 August 2017 (No. 17-1287) the withdrawal of the consent for the opening and functioning of the Russian Consulate General in San Francisco; the lifting of all its immunities with effect from 2 September 2017; demanded to cease, with effect from the same date, all activities of the Consulate General; announced the denial of access to the staff area of the administrative and residential building of the Consulate General for "any persons, including Russian representatives" and the ban on keeping the archives of the diplomatic missions or consular establishments of the Russian Federation in the said premises. With effect from 1 October 2017, access was also denied to the other premises of the Consulate General, i.e. the residential section of the administrative building and the residence of the Consul General, all immunities of which were lifted from that same date.

4.4. *Trade Representation of the Russian Federation in Washington, D.C. Administrative building* (2001 Connecticut Avenue, NW, Washington, D.C.).

Pursuant to the terms of the Agreement on Trade Relations between the United States of America and the Union of Soviet Socialist Republics of 1 June 1990, regulating U.S.-Russia relations, the Trade Representation forms part of the Embassy of the Russian Federation in Washington, D.C. Its staff and their family members enjoy the status similar to that granted to the equivalent categories of the Embassy's personnel (diplomatic, administrative and technical, and support personnel).

4.5. *Office of the Trade Representation of the Russian Federation. Office premises* (353 Lexington Avenue, Suite 1500, New York, NY). The official missions of the Russian Federation, their premises and staff members referred to in paragraphs 4.4 and 4.5, in accordance with the note of the U.S. Department of State (No. 17-1287), were subject to coercive measures and bans similar to those imposed on the Consulate General of the Russian Federation in San Francisco (see para. 4.3 above), including deadlines.

4.6. *Consulate General of the Russian Federation in Seattle. Office premises* (600 University Street, 2510, Seattle, Washington) and *residence of the Consul General* (3726 East Madison Street, Seattle, Washington). In its note of 26 March 2018 (No. 18-439), the U.S. Department of State, in particular, declared the following: the withdrawal of consent to the opening and functioning of the Consulate General, as well as of permission to use the relevant premises for diplomatic/consular purposes, and the lifting of all of their immunities starting at midnight on 1 April 2018 with respect to the premises on University Street and at midnight on 24 April 2018 with respect to the premises on East Madison Street; and a ban on keeping archives of diplomatic missions or consular establishments of the Russian Federation in these premises.

5. The introduction of the above-mentioned restrictive measures, despite protests by the Russian side, was accompanied by forced entry of representatives of the U.S. authorities into the relevant premises (with breaking of locks and disabling of entry gates), conducting searches therein (under the guise of so-called "examinations" or "inspections") as well as engineering works not agreed with by the Russian Federation, as a result of which the premises and their furnishings were damaged.

6. The Russian Federation emphasizes that it has legally (under contracts of purchase and sale) the right of ownership of the facilities specified above in paragraphs 4.1, 4.2, 4.3, 4.4 and 4.6 (the building of the residence of the Consul General). In respect of the facilities specified in paragraphs 4.5 and 4.6 (premises in University Street), it exercised the rights of the tenant on the basis of a private legal contract. In respect of the ancillary land plot at the address specified in paragraph 4.6, the right of use is for a period of 99 years (until 2075).

7. However, despite protests by the Russian Federation and its regular (every two weeks) requests via diplomatic channels to let Russian representatives examine the above-mentioned premises (including with the aim of preventing the failure of operating systems and holding one-off protocol events), the U.S. Department of State has systematically refused to provide such access to all of the above-mentioned facilities.

8. Thus, contrary to the notes of the U.S. Department of State that provide for authorization procedures for visits by Russian representatives, the Russian Federation has been completely and for a long time deprived of any possibility of control over these facilities, access to them and the exercise of the powers of the owner (user) in respect of them. At the same time, representatives of the U.S. authorities regularly gain access to the premises mentioned, without consent or

notification of the Russian Federation. Taking into account the above, it can be stated that the mentioned premises have been seized by the U.S. authorities.

9. Despite protests by the Russian Federation, State flags of the Russian Federation have been removed from all of the above-mentioned premises.

10. There has been a violation of the integrity of the archive of the Consulate General of the Russian Federation containing, among other things, personal data of applicants, U.S. and Russian citizens. Without consent of the Russian Federation, that archive was removed from the premises of the Consulate General by the U.S. authorities, packed into boxes by them and shipped to Washington, D.C., to be handed over to the Embassy by the transport company engaged by the U.S. Department of State.

11. The Russian Federation notes that, despite its systematic protests, the U.S. Government does not take any measures to end its own unlawful conduct and resolve the situation and, in addition to that, declares "full compliance" of its actions with national legislation and international law. Accordingly, none of the persons involved in the planning, organization or implementation has been held accountable by the U.S. authorities.

12. The Russian Federation also expresses the most serious concern over the fact that the repressive infringements described above, incompatible with the purpose and objectives of the Charter of the United Nations, the Vienna Convention on Diplomatic Relations of 18 April 1961, the Vienna Convention on Consular Relations of 24 April 1963, the U.S.-Russian Consular Convention of 1 June 1964 and the United Nations Headquarters Agreement between the U.S. Government and the United Nations of 26 June 1947, are based on legally unsubstantiated claims that the receiving State possesses a sole and absolute right to adopt unilateral measures to halt the activities of foreign diplomatic missions and consular establishments, to lift their diplomatic immunities, to impose bans on access of the sending State to the premises and to expel staff members and their family from there, including private residences, under deliberately unacceptable conditions not ensuring even the guarantees that should be provided to the accrediting State in case of war or breach of diplomatic relations. Thus, the very essence of basic institutes of diplomatic and consular law is diluted and rendered meaningless and the fundamental principle of *ne impediatur legatio* is violated.

13. The Russian Federation strongly protests against such interpretation and application of the above-mentioned international instruments and believes that the consequences of the measures taken by the U.S. authorities, which affect international obligations *erga omnes*, go way beyond the U.S.-Russian bilateral relations and are capable of creating an extremely undesirable precedent and causing serious damage to the sustainability and stability of the entire system of international relations.

14. The Russian Federation is convinced that the above actions of the U.S. authorities require strong condemnation by the United Nations.

15. **Austria** (18 May 2018) reported that the following incidents occurred on its own territory and in Libya:

1. On 22 March 2017, members of the "Identitarian Movement" entered the roof of the Embassy of Turkey in Vienna from a neighbouring building and unrolled a banner. The intruders were reported to the police. Their trial before the regional criminal court is ongoing. Austria made an ex gratia payment to cover the damage caused to the roof.

2. On 21 January 2018, a couple of persons trespassed on the premises of the Consulate General of Turkey in Salzburg, but did not manage to enter the sensitive area of the consulate. The intruders have not yet been identified; investigations are ongoing. An ex gratia payment to cover the damage caused to the entrance area of the consulate is currently being processed.

3. At an unknown date at the beginning of 2017, the official building of the Embassy of Austria in Tripoli was attacked with a heavy weapon. No Embassy staff was affected, since the Austrian Ambassador and his team currently reside in Tunisia. The incident was brought to the attention of the Foreign Ministry of Libya in a meeting on 11 April 2017. To date, no official reaction by the Libyan authorities has been received.

16. **Belgium** (18 May 2018) reported that no relevant incidents concerning its premises abroad had occurred and submitted information on a number of incidents that targeted foreign diplomatic missions on its territory:

Country	*Premises*	*Incidents*	*Date*
Greece	Residence of the Ambassador	Acts of vandalism	26 April 2016
Indonesia	Embassy	Trespassing	10 May 2016
Turkey	Embassy	Acts of vandalism	29 October 2016
Cameroon	Embassy	Trespassing	10 November 2016
Gabon	Embassy	Robbery	11 December 2016
Azerbaijan	Residence of the Ambassador	Robbery	22 December 2016
Denmark	Embassy	Robbery	23 and 25 December 2016
Rwanda	Embassy	Forcible trespassing	5 January 2017
Argentina	Embassy	Robbery	28 March 2017
South Korea	Residence of the Ambassador	Trespassing	2 April 2017
Equatorial Guinea	Embassy	Robbery	9 April 2017
Morocco	Former premises of the Consulate General	Squatting	April 2017
Venezuela	Embassy	Acts of vandalism	15 April and 6 May 2017
Bosnia and Herzegovina	Residence of the Head of Mission to the European Union	Robbery	8 May 2017
Denmark	Residence of the Ambassador	Attempted robbery	29 June and 9 July 2017
Albania	Embassy	Robbery	30 July 2017
Slovenia	Embassy	Robbery	7 August 2017
Poland	Embassy	Attempted trespassing	27 October 2017
Bahrain	Embassy	Attempted trespassing	4 November 2017
Denmark	Permanent Mission to the European Union	Robbery	23 December 2017

Country	*Premises*	*Incidents*	*Date*
Algeria	Residence of the Ambassador	Attempted robbery and threatening phone calls	25 and 30 January 2018
Turkey	Embassy	Acts of vandalism	25 March 2018

Details are given below for each incident and of the steps taken by the Belgian authorities. In 2016, the following incidents were reported:

- *26 April 2016, Greece, Acts of vandalism, Graffiti on the Ambassador's residence*. The Crisis Centre of FPS (Internal Affairs) was informed so that police patrols could be alerted to the situation and security arrangements upgraded.
- *10 May 2016, Indonesia, Trespassing at the Embassy*. Two individuals entered the access control vestibule of the Embassy but fled when they caught sight of the receptionist. A police report was prepared and an investigation initiated. The Crisis Centre of FPS (Internal Affairs) was informed so that police patrols could be notified of the incident and security arrangements upgraded as a result.
- *29 October 2016, Turkey, Acts of vandalism, Graffiti on the Embassy entrance door*. The police arrived, prepared a report and opened an investigation. The Crisis Centre of FPS (Internal Affairs) was informed so that security arrangements could be upgraded
- *10 November 2016, Cameroon, Embassy trespassing*. The Crisis Centre of FPS (Internal Affairs) was informed so that police patrols could be notified of the incident and security arrangements upgraded as a result.
- *11 December 2016, Gabon, Robbery at the Embassy*. A police report was prepared and an investigation conducted. The Crisis Centre of FPS (Internal Affairs) and the Coordinating Body for Threat Analysis (OCAM) were informed. Security arrangements were upgraded as a result.
- *22 December 2016, Azerbaijan, Robbery at the Ambassador's residence*. The police arrived, prepared a report and conducted an investigation. The Crisis Centre of FPS (Internal Affairs) was informed so that security arrangements could be upgraded as a result.
- *23 and 25 December 2016, Denmark, Robbery at the Embassy*. The police arrived, prepared a report and conducted an investigation. The Crisis Centre of FPS (Internal Affairs) was informed so that security arrangements could be upgraded as a result.

In 2017, the following incidents were reported:

- *5 January 2017, Rwanda, Forcible trespassing at the Embassy*. The Embassy doors were demolished but no robbery or other act of vandalism was committed. A report was prepared and an investigation initiated. The Crisis Centre of FPS (Internal Affairs) was informed so that police patrols could be alerted and security arrangements upgraded as a result.
- *28 March 2017, Argentina, Robbery at the Embassy*. A report was prepared and an investigation conducted. The Crisis Centre of FPS (Internal Affairs) was informed so that the police patrols could be notified of the incident and security arrangements upgraded as a result.

– *2 April 2017, South Korea, Trespassing at the Ambassador's residence.* The Crisis Centre of FPS (Internal Affairs) was informed so that police patrols could be notified of the incident and security arrangements upgraded as a result.

– *9 April 2017, Equatorial Guinea, Robbery at the Embassy.* A report was prepared and an investigation conducted. The Crisis Centre of FPS (Internal Affairs) was informed so that the police patrols could be notified and security arrangements upgraded as a result.

– *April 2017, Morocco, Squatting at the former premises of the Consulate General.* After several interventions, the squatters finally left the premises. The Crisis Centre of FPS (Internal Affairs) was informed so that police patrols could be notified of the incident and security arrangements upgraded as a result. In addition, the Crisis Centre of FPS (Foreign Affairs) drew the attention of the Moroccan authorities to the need to also protect their unoccupied premises.

– *15 April and 6 May 2017, Venezuela, Acts of vandalism, Embassy.* Large signs and banners with political messages were attached to the Embassy gates and candles were placed on the sidewalk in front of the Embassy. An evaluation was made by OCAM. The Crisis Centre of FPS (Internal Affairs) was informed so that police patrols could be notified of the incident and security arrangements upgraded as a result.

– *8 May 2017, Bosnia and Herzegovina, Robbery at the residence of the Head of Mission to the European Union.* A report was prepared and an investigation was conducted. The Crisis Centre of FPS (Internal Affairs) was informed so that police patrols could be notified of the incident and security arrangements upgraded as a result.

– *29 June and 9 July 2017, Denmark, Attempted robbery at the Ambassador's residence.* A report was prepared and an investigation conducted. The Crisis Centre of FPS (Internal Affairs) was informed so that police patrols could be notified of the incident and security arrangements upgraded as a result.

– *30 July 2017, Albania, Robbery at the Embassy.* A report was prepared and an investigation conducted. The Crisis Centre of FPS (Internal Affairs) was informed so that police patrols could be notified of the incident and security arrangements upgraded as a result.

– *7 August 2017, Slovenia, Robbery at the Embassy.* A report was prepared and an investigation conducted. The Crisis Centre of FPS (Internal Affairs) was informed so that police patrols could be notified of the incident and security arrangements upgraded as a result.

– *27 October 2017, Poland, Attempted trespassing at the consular section.* The Crisis Centre of FPS (Internal Affairs) was informed so that police patrols could be notified of the incident and security arrangements upgraded as a result.

– *4 November 2017, Bahrain, Attempted trespassing at the Embassy.* When the alarm sounded, the individuals fled without entering the premises. An investigation was initiated and security arrangements have been upgraded as a result.

– *23 December 2017, Denmark, Robbery at the Permanent Mission to the European Union.* The Crisis Centre of FPS (Internal Affairs) was informed so that police patrols could be notified of the incident and security arrangements upgraded as a result.

Early in 2018, the following incidents were reported:

– *25 and 30 January 2018, Algeria, Attempted robbery at the Ambassador's residence and threatening phone calls to the Ambassador*. An evaluation was made by OCAM, which concluded that this was an ordinary law crime and not terrorism. The Crisis Centre of the (Internal Affairs) was informed so that security arrangements could be upgraded. Patrols and police surveillance were organized.

– *25 March 2018, Turkey, Acts of vandalism*. Demonstrators daubed red paint on the walls and windows of the Embassy. A report was prepared. The Crisis Centre of FPS (Internal Affairs) was informed so that police patrols could be notified of the incident and security arrangements could be upgraded. An offer to reimburse clean-up costs was made to the Embassy of Turkey.

17. The **Islamic Republic of Iran** (31 May 2018) further reported that the following incident occurred in Morocco:

> Based on reports received, an unknown individual, on 19 May 2017, covertly entered the house of a local staff member of the Iranian Embassy in Rabat, which is located inside the residence of the Ambassador of the Islamic Republic of Iran.
>
> Upon the unauthorized entry, the individual committed assault and battery upon two of the daughters of the local staff. One of the two victims of this crime suffered a broken wrist as a result of the attack and the other victim was left unconscious due to a severe blow to the chest sustained during the attack. Both victims also suffered from bruises on their upper arms as well as other parts of their bodies. Subsequently, the assailant then fled the scene.
>
> The Islamic Republic of Iran, emphasizing the provisions of the Vienna Convention on Diplomatic Relations, 1961, in particular its article 45, and the obligations of the Government of the Kingdom of Morocco as the receiving State, expresses its condemnation and concern with regard to the aforementioned incident. Accordingly, the Islamic Republic of Iran has requested the Moroccan authorities to do their utmost to identify, prosecute and put on trial the attacker; to compensate, restitute and redress all the mental, corporal and financial damages inflicted upon the injured persons and their family; and to inform the Government of the Islamic Republic of Iran of such actions taken in this regard.

18. **Ukraine** (4 June 2018) submitted information concerning the incidents reported by the Russian Federation on 30 September 2016 (A/71/130/Add.1). In relation to the incident of 22 February 2014, the following information was submitted:

> The case was registered in the Unified Crime and Offence Registry and proper review was done. On the results of the investigation, no elements of criminal offence in the mentioned facts were established; in this connection, the information was not entered into the Unified Registry of Pretrial Proceedings.

As to the incident of 19 March 2014:

> The case was registered in the Unified Crime and Offence Registry and proper review was done. As a result of the investigation, no elements of criminal offence in the mentioned facts were established, and this information was not entered into the Unified Registry of Pretrial Proceedings.

As to the incident of 13 to 14 April 2014:

The decision was made to close the criminal proceeding in accordance with paragraph 2 of part 1 of article 284 of the Code of Criminal Procedure of Ukraine, due to the absence of the elements of criminal offence.

As to the incident of 14 June 2014:

The fact of acts of hooliganism was registered under No. 24961 in the Unified Crime and Offence Registry of Solomyanskyi District Administration of the Directorate General of the Ministry of Internal Affairs of Ukraine in Kyiv. The decision was made to enter the information on criminal offence under No. 12014100090005108 into the Unified Registry of Pretrial Proceedings dated 14 June 2014 in accordance with part 2 of article 296 of the Criminal Code of Ukraine.

As to the incident of 16 June 2014:

Four criminal proceedings were opened and qualified in accordance with part 2 of article 296 (Hooliganism), part 2 of article 263-1 (Illegal manufacturing, modification or repair of firearms or forgery, illegal removal or altering of markings, or illegal manufacturing of ammunition, explosive devices), part 2 of article 28 (commitment of crime by a group of persons, a group of persons by prior conspiracy, an organized group or a criminal organization), part 1 of article 263 (Unlawful handling of weapons, ammunition or explosives) and part 2 of article 15 (Criminal attempt), and part 2 of article 258 (Terrorist Act) of the Criminal Code of Ukraine.

As to the incident of 22 June 2014:

The case was registered in the Unified Crime and Offence Registry and proper review was done. On the results of the investigation, no elements of criminal offence in the mentioned facts were established; in this connection, the information was not entered into the Unified Registry of Pretrial Proceedings.

As to the incident of 9 July 2014:

The decision was made to close the criminal proceeding in accordance with paragraph 2 of part 1 of article 284 of the Code of Criminal Procedure of Ukraine, due to the absence of the elements of criminal offence.

As to the incident of 22 August 2014:

The fact of unlawful actions was registered under No. 36237 in the Unified Crime and Offence Registry of Solomyanskyi District Administration of the Directorate General of the Ministry of Internal Affairs of Ukraine in Kyiv. The notice hereof was considered in accordance with the requirements of the Law of Ukraine on Citizens' Appeals and the materials were added to the case No. 21418 dated 12 September 2014.

As to the incident of 28 August 2014 in Kharkiv:

The case was registered in the Unified Crime and Offence Registry and proper investigation was done. On the results of the investigation, no elements of criminal offence in the mentioned facts were established; in this connection the information was not entered into the Unified Registry of Pretrial Proceedings.

As to the incident of 28 August 2014 in Kyiv:

> Kyiv Police Department of the Directorate General of the National Police of Ukraine in Kharkiv region conducted pretrial investigation in accordance with part 2 of article 296 of the Code of Criminal Procedure of Ukraine.

As to the incident of 12 June 2015:

> The case was registered in the Unified Crime and Offence Registry and proper investigation was done. On the results of the investigation, no elements of criminal offence in the mentioned facts were established; in this connection, the information was not entered into the Unified Registry of Pretrial Proceedings.

As to the incident of 6 March 2016:

> The fact of acts of hooliganism was registered under No. 16152 in the Unified Crime and Offence Registry of Solomyanskyi District Police Administration of the Directorate General of the National Police of Ukraine in Kyiv. The decision was made to enter the information on criminal offence under No. 12016100090002657 in the Unified Registry of Pretrial Proceedings dated 6 March 2016 in accordance with part 2 of article 296 of the Criminal Code of Ukraine.

As to the incident of 9 March 2016 in L'viv:

> Lychakivsk Police Department of the Directorate General of the National Police of Ukraine in Lviv region conducted a pretrial investigation in accordance with part 2 of article 338 (Outrage against State symbols) of the Criminal Code of Ukraine.

As to the incident of 9 to 10 March 2016:

> The fact of acts of hooliganism was registered under No. 16152 in the Unified Crime and Offence Registry of Solomyanskyi District Police Administration of the Directorate General of the National Police of Ukraine in Kyiv. The decision was made to enter the information on criminal offence under No. 12016100090002813 in the Unified Registry of Pretrial Proceedings dated 10 March 2016 in accordance with part 2 of article 296 of the Criminal Code of Ukraine.

As to the incident of 11 March 2016:

> The case was registered in the Unified Crime and Offence Registry and proper investigation was done. On the results of the investigation, no elements of criminal offence in the mentioned facts were established; in this connection, the information was not entered into the Unified Registry of Pretrial Proceedings.

As to the incident of 16 to 17 September 2016:

> The fact of acts of hooliganism was registered under No. 70917 in the Unified Crime and Offence Registry of Solomyanskyi District Police Administration of the Directorate General of the National Police of Ukraine in Kyiv. The decision was made to enter the information on criminal offence under No. 12016100090010837 in the Unified Registry of Pretrial Proceedings dated 17 September 2016 in accordance with part 2 of article 296 of the Criminal Code of Ukraine.

19. **Morocco** (26 June 2018) submitted information concerning the incidents reported by the Islamic Republic of Iran on 31 May 2018:

A clear contradiction has emerged with regard to the statements made by the sole witness of the alleged attempted robbery, Sara Varamini (daughter of the Iranian individual in question). On the day of the incident, she reported to the police that she was the only person to have seen the perpetrator, who had fled without using force.

This is supported by the fact that no medical certificate has been produced, despite the allegation set out in the report of the Iranian Mission, according to which an unknown individual had entered the residence and had attacked the two daughters of Majid Abedin Varamini. One daughter had suffered hand fractures, while the other had fainted after receiving a blow to the chest.

The police services were aware of the gravity of the case, as a diplomatic residence is protected by the Vienna Convention, and they arrived on the scene with all due speed to conduct the police investigations required in this situation. However, the technical tests were inconclusive (the perpetrator's fingerprints were not found in the database of the General Directorate for National Security), although the police investigation is continuing with great determination.

On another issue, the Moroccan authorities have exercised their sovereignty by allowing the Iranian national Majid Abedin Varamini to remain in the country, mainly for humanitarian reasons, as he has been resident in Morocco since 1998 and is married to a citizen of Morocco with whom he has two daughters. This integration in itself renders null and void the spurious grievances voiced by the Iranian Mission.

The alien Majid Abedin Varamini, who remained in Morocco following the previous breakdown in relations between Rabat and Teheran (from 2009 to 2014) and who has never had reason to complain of any prejudice or be concerned by any security issue, has been granted a residence card on two occasions.

Furthermore, no building or home in the world is secure from criminals, especially in the case of residences situated in wealthy neighbourhoods, and the Iranian Mission has been particularly negligent by failing to install surveillance cameras, in contrast with other diplomatic missions situated in Morocco.

20. The **United States of America** (13 July 2018) submitted the following information concerning the report submitted by the Russian Federation on 17 May 2018:

The United States Mission to the United Nations presents its compliments to the United Nations Office of Legal Affairs and has the honour to respond to the note of 7 June 2018 (No. LA/COD/4). That note refers to a revised "report" of the Permanent Mission of the Russian Federation to the United Nations, purportedly pursuant to General Assembly resolution 71/145.

The title, history, and text of resolution 71/145 make clear that the Russian "report" is unfounded, improper and presents the danger of undermining the critically important purpose of resolution 71/145, entitled "Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives". This resolution, which was issued in December 2016, has been regularly reissued for more than three decades. It arose out of the events in Iran of November 1979, when students took 66 United States citizens hostage. Most of these individuals were members of the United States diplomatic mission to Iran, and most of them were held hostage, with the encouragement of the Iranian Government, for 444 days, until January 1981. The International Court of Justice ruled in 1980 that the Iranian Government had violated, and was violating, the rights of the United States with respect to

the inviolability of the mission premises and the personal inviolability of accredited individuals. This infamous act was the genesis of what is now resolution 71/145.

Given this history, the United States is particularly supportive of resolution 71/145, in paragraph 2 of which the General Assembly declared that it was alarmed by the new and recurring acts of violence against diplomatic and consular representatives, as well as against representatives to international intergovernmental organizations and officials of such organizations, which endanger or take innocent lives and seriously impede the normal work of such representatives and officials". In paragraphs 3 and 4, it strongly condemned all such acts of violence, and urged States to take practical steps to protect such individuals and to prevent such acts of violence. In paragraph 10 (a), it urged all States to report serious violations of the protection, security and safety of diplomatic and consular missions and representatives as well as missions and representatives with diplomatic status to international governmental organizations.

It is unfortunate that the Russian Federation saw fit to transmit to the Secretary-General a report under this resolution, given that it provides no evidence, or even a specific allegation, of a threat to the security of members of its diplomatic and consular missions, or of its Permanent Mission to the United Nations. Indeed, the focus of Russian's report is not on its accredited personnel at all, but rather on its property. As will be shown below, the actions that the United States has taken with respect to the Russian Federation and its properties in the United States are in conformity with the Vienna Conventions on Diplomatic and Consular Relations, and do not begin to approach legitimate concerns about the inviolability of mission premises and of accredited personnel.

The first incident about which Russia complains occurred in December 2016, when the United States informed the Russian Federation, on December 29, that the Russian recreational properties in Upper Brookville, New York, and Centreville, Maryland (Pioneer Point), were no longer authorized for use for diplomatic or consular purposes. In addition, the United States declared 35 Russian bilateral personnel to be persona non grata. The United States announced publicly that these actions were in response to Russia's interference in the U.S. election and, notably in the context of resolution 71/145, to well-documented incidents of harassment of United States diplomatic and consular personnel in Russia.

On 28 July 2017, the Russian Federation announced that it wanted "parity" in the United States-Russian bilateral relationship and demanded that, as of 1 September, the United States reduce the size of its diplomatic and consular presence in Russia to 455 personnel. The Russian Federation also announced that it would close a Moscow recreational property used by the United States Embassy and a U.S. Embassy warehouse in Moscow. This incident, and the other actions taken by Russia as described below, are not mentioned in Russia's report to the Secretary-General.

On 31 August 2017, the United States informed the Russian Federation that the United States had complied with the Russian requirement that the United States reduce the size of its diplomatic and consular presence in Russia. The United States further informed the Russian Federation that the United States Department of State was withdrawing its consent to the establishment of a consular post in San Francisco and its permission for diplomatic or consular use of properties in New York (consular annex) and Washington (Embassy annex).

Also, consistent with the withdrawal of consent for a Russian consulate in San Francisco, the Consulate General residential property was required to close. Russian consular staff in San Francisco were given one month to wind up their personal activities and depart from their residences. Personnel from the consulate were permitted to be reassigned to another bilateral diplomatic or consular mission in the United States. The Russian Trade Office, which functioned as part of the Embassy, from an annex moved to the main Russian Embassy location. The consular annex in New York City was leased space and reverted to the landlord, but the personnel were able to relocate to an existing Russian consular facility. To ensure safety and to secure the properties, the United States conducted walk-throughs of the various properties only after such inviolability as had existed had ended.

On 14 March 2018, after the use of a Soviet military-grade nerve agent in the United Kingdom against Sergei Skripal and Yulia Skripal, the United Kingdom ordered the expulsion of 23 Russian diplomats from the United Kingdom. On 26 March 2018, the United States announced that, effective 1 April 2018, the United States was withdrawing its consent for the operation of the Russian Consulate General in Seattle, and Russian operations there were required to cease. Beginning 25 April 2018, the Consul General's residential property was no longer authorized for use for consular purposes. The Consulate General office property was leased space and reverted to the landlord. Additionally, in response to Russian actions, the United States required the departure of 48 Russian accredited personnel from Russia's bilateral mission to the United States. Separately, pursuant to the provisions of the United Nations Headquarters Agreement, the United States required the departure of 12 accredited personnel from the Permanent Mission of Russia to the United Nations.

On 29 March 2018, the Russian Federation announced closure of the United States Consulate General in St. Petersburg, effective 31 March 2018. Russia also declared persona non grata a total of 60 United States accredited diplomatic and consular personnel in Russia effective April 5.

Throughout all of the actions that it has taken with respect to the Russian diplomatic mission to the United States, the Russian Federation's consular posts and its Permanent Mission to the United Nations, the United States has ensured the safety and security of all diplomatic or consular staff members, and their family members, who may have resided or worked in the affected property. First and foremost, in keeping with the purpose of resolution 71/145, the United States has acted with the utmost respect towards the physical safety of these individuals. The Russian Federation has offered no evidence to the contrary.

With respect to the Russian properties, the focus of Russia's report, the United States took custody of Russian property only after the expiration of a stated period during which the property continued to enjoy inviolability and the Russian Federation had an opportunity to remove archives, materials and personnel from the premises. There is no international law obligation to allow members of a diplomatic mission to reside in any particular property, and with regard to the two recreational properties ("dachas" at Pioneer Point, Maryland and Upper Brookville, New York), no diplomatic or consular mission has a right to a recreational property. With respect to the Upper Brookville property, Russia has provided no evidence that it ever notified the Permanent Mission of the United States or the United Nations Secretariat that it intended the property to be part of its diplomatic mission, as required under article 12 of the Vienna Convention on Diplomatic Relations. Accordingly, it never enjoyed inviolability under that Convention and the United Nations Headquarters Agreement.

None of the Russian-owned properties were "seized" by the United States. Those properties which were owned by the Russian Federation continue to be owned by the Russian Federation. In shutting down the consular properties and the Embassy and consular annexes, the United States did not, contrary to the Russian report, "raid" the properties, or engage in "forced entry". When requiring Russia to forego the use of these properties, the United States respected the inviolability of the property, if any, for such time frame as the inviolability existed. The United States did so by providing warning to the Russian Federation that the permitted diplomatic or consular or residential use would terminate, and that only upon termination of such permitted use would inviolability of the property cease. This meant that the Russian Federation was no longer allowed to use the property as a consulate, official residence or mission or consular annex. Once the period after notice of the withdrawal of consent had elapsed, the property no longer enjoyed inviolability because it was no longer diplomatic or consular premises or a residence entitled to such protection. As discussed above, the Russians took reciprocal actions against the United States.

When a leased property is no longer permitted to be used for diplomatic or consular purposes, the Department allows the property to revert to the control of the landlord, at which point the property is, of course, no longer inviolable. For example, the United States withdrew its consent for Russia to maintain a consulate in Seattle and provided a week for Russia to close its operations and vacate the premises. During that period, the consular premises retained their inviolability. After that period, the leased premises were returned to the landlord and ceased to enjoy any inviolability.

For these reasons, the United States strongly objects to the report of the Russian Federation, which does not raise serious concerns about the personal safety of the members of its diplomatic missions, consular posts, or its Permanent Mission to the United Nations, which is the focus of resolution 71/145, nor does it raise legitimate concerns about the inviolability of the premises of its Embassy, of its consular posts, or of its Permanent Mission to the United Nations. The United States accordingly requests that the Secretary-General reject the report of the Russian Federation in its entirety.

III. Views expressed by States pursuant to paragraph 12 of General Assembly resolution 71/145

21. **Lebanon** (28 April 2017) expressed the following views:

The Embassy Security Service protects embassies, diplomatic missions and related institutions by providing guard and escort services and by carrying out surveillance and information-gathering. Guard and escort duties are carried out by the Embassy Security Brigade of the above-mentioned Service, while surveillance and information-gathering is carried out by the Central Surveillance Brigade.

I. Embassy Security Brigade

The units of the Embassy Security Brigade constantly protect and guard approximately 130 embassies and diplomatic missions during official business hours in the daytime and at night. The Brigade also provides escort services to a number of ambassadors; some are escorted whenever they move about, while others are escorted on a temporary basis, in accordance with the requirements of the assignment. Such services are provided in coordination with the relevant

mission. Escort units are provided with reinforcements when necessary, such as when there is a threat or information is received. In addition, units are stationed on or patrol the perimeter of embassies on a regular or temporary basis, depending on the circumstances.

II. Central Surveillance Brigade

The Central Surveillance Brigade uses security patrols to gather information. The Brigade also carries out required surveillance, deploys units on ad hoc basis at the above-mentioned missions and provides support to guard units when necessary. It furthermore regularly passes by all diplomatic and consular missions and the residences of their staff in order to monitor their situation, prevent any act of terrorism that might compromise their security and intervene immediately in case of emergency. The Brigade, acting in coordination with the relevant security agencies, also monitors protests that take place in front of embassies.

When necessary, Brigade personnel use civilian vehicles to escort certain diplomats. It remains in constant contact with the relevant officials of the diplomatic missions, in order to remain abreast of any security information the missions might have and to utilize such information as rapidly as possible.

On an exceptional basis, the Brigade, acting in coordination with the relevant judicial authorities, questions suspicious persons who are observed near the perimeter of diplomatic missions and ambassadorial residences.

III.

On orders from the General Directorate, the Mobile Forces Unit helps the Embassy Security Service to shore up security and protection at certain diplomatic missions whenever the Service receives information that an embassy might be threatened or attacked.

IV.

The General Directorate of Internal Security Forces receives the majority of sensitive security information from specialized security sources. No embassies or diplomatic missions, or their related institutions, have been subject to any type of attack recently.

V.

In order to ensure the smoothness of operations, the relevant agencies coordinate their efforts through the operations room maintained by the Embassy Security Service. Operations room staff are in direct contact around the clock with the chiefs and staff members of the above-mentioned agencies.

VI.

The Embassy Security Service will be strengthened through increased staffing, so that it can take the measures necessary to protect diplomatic missions.

22. **Bahrain** (25 April 2018) expressed the following views:

The relevant authorities in the Kingdom of Bahrain place this issue at the top of their priorities and scrupulously observe, implement and enforce all the applicable principles and rules of international law governing diplomatic and consular relations.

In this respect, the authorities monitor, around the clock, the situation of diplomatic and consular missions and residences and undertake periodic surveys

to ascertain the suitability of security measures aimed at protecting the said premises. No notable incident affecting the security and safety of these missions or their personnel has taken place in the territory of the Kingdom of Bahrain.

23. **Finland** (9 May 2018) expressed the following views:

The Finnish authorities wish to assure the Secretary-General that they take very seriously their duty to take all appropriate action to protect the premises of diplomatic missions against any intrusion or damage and to prevent any attack on the person of the staff members of the missions. Finland also wishes to emphasize the importance of cooperation on security matters not only at the international level, but also at the national level, between the missions and the competent local authorities.

24. **Qatar** (15 May 2018) further reported that no violations involving the security and safety of missions had occurred, and expressed the following views:

Measures taken to enhance the security and safety of diplomatic and consular missions reflect the scrupulous attention devoted by Qatar to ensuring the security and safety of the premises, personnel and events of diplomatic and consular missions and preventing the commission of any acts of violence against them. Preventive security measures include the posting of permanent guards, security patrols and direct around-the-clock coordination with security officials at those locations through a diplomatic liaison officer.

We would like to point out that Qatar has been and remains scrupulous about complying with, implementing and enforcing all the principles of international law governing diplomatic and consular relations, both customary and codified. Qatar has been a party to the 1961 Vienna Convention on Diplomatic Relations since 1986 and a party to the 1963 Vienna Convention on Consular Relations since 1998. In 1997, Qatar acceded to the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents.

25. **Belgium** (18 May 2018) expressed the following views on the measures needed or already taken to enhance the protection, security and safety of missions and representatives:

A. General measures

Security arrangements for diplomatic missions are based on the threat analysis conducted by the Coordinating Body for Threat Analysis. It determines a threat level for every diplomatic mission established on Belgian soil. Based on the threat level, the Crisis Centre of FPS (Internal Affairs) requires the police to make specific security arrangements appropriate for each mission. A monthly meeting with the participation of the Protocol Directorate of FPS (Foreign Affairs) is held at the Crisis Centre to provide overall monitoring of security arrangements for the various diplomatic missions present in Belgium.

B. Specific measures

Diplomatic missions which have a security problem contact the Protocol Directorate of FPS (Foreign Affairs). Each specific problem is then brought to the attention of the competent security service by the Protocol Directorate and receives an appropriate response.

26. **Sudan** (31 May 2018) expressed the following views:

1. The Police Force Command protects public facilities in accordance with the responsibilities set forth in articles 12 and 16 of the Sudan Police Force Act (2008).

2. The Ministry of the Interior has issued a regulation concerning the policing of diplomatic missions. The regulation establishes a Police Department for the Protection of Diplomatic Missions, Organizations and Entities. The Department protects the headquarters of diplomatic missions, organizations and entities, in addition to official events and activities organized by diplomatic missions. It responds to any security threats to such missions and the movement of their members, and families thereof, within and beyond Khartoum State. In so doing, it complies with the Respect for Diplomatic Privileges and Immunities Act (1956).

3. Accordingly, Sudanese legislation codifies the effective measures set out in international conventions concerning the protection and safety of diplomatic missions and their staff. Relevant laws include the Diplomatic Privileges and Immunities Act (1956), the Sudan Police Force Act (2008) and the Police Department for the Protection of Diplomatic Missions Regulation (2004).

4. The Police Department for the Protection of Diplomatic Missions takes the necessary steps to protect the safety and security of diplomatic and consular missions. It continuously briefs its members in order to increase their security awareness.

5. The Sudan acceded to the 1961 Vienna Convention on Diplomatic Relations on 13 April 1961 and to the 1963 Vienna Convention on Consular Relations on 23 March 1995.

IV. Status of participation in international conventions pertaining to the protection, security and safety of diplomatic and consular missions and representatives as at 18 June 2018

27. Each instrument listed below is represented in tables 1 and 2 by the letter shown on the left in the list.

A. Vienna Convention on Diplomatic Relations of 1961 (signed at Vienna on 18 April 1961; entered into force on 24 April 1964, in accordance with article 51);

B. Optional Protocol to the Vienna Convention on Diplomatic Relations concerning Acquisition of Nationality of 1961 (signed at Vienna on 18 April 1961; entered into force on 24 April 1964, in accordance with article VI);

C. Optional Protocol to the Vienna Convention on Diplomatic Relations concerning the Compulsory Settlement of Disputes of 1961 (signed at Vienna on 18 April 1961; entered into force on 24 April 1964, in accordance with article VIII);

D. Vienna Convention on Consular Relations of 1963 (signed at Vienna on 24 April 1963; entered into force on 19 March 1967, in accordance with article 77);

E. Optional Protocol to the Vienna Convention on Consular Relations concerning Acquisition of Nationality of 1963 (signed at Vienna on 24 April 1963; entered into force on 19 March 1967, in accordance with article VI);

F. Optional Protocol to the Vienna Convention on Consular Relations concerning the Compulsory Settlement of Disputes of 1963 (signed at

Vienna on 24 April 1963; entered into force on 19 March 1967, in accordance with article VIII);

G. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, of 1973 (adopted by the General Assembly on 14 December 1973; entered into force on 20 February 1977, in accordance with article 17).

Table 1
Total participation in international conventions pertaining to the protection, security and safety of diplomatic and consular missions and representatives

Signature, succession to signature						
A	B	C	D	E	F	G
60	18	29	48	19	38	25

Ratification, accession or succession						
A	B	C	D	E	F	G
191	51	71	179	41	51	180

Table 2
Status of participation in international conventions pertaining to the protection, security and safety of diplomatic and consular missions and representatives

	Signature, succession to signature							*Ratification, accession or succession*						
State	*A*	*B*	*C*	*D*	*E*	*F*	*G*	*A*	*B*	*C*	*D*	*E*	*F*	*G*
Afghanistan								A						G
Albania	A							A			D			G
Algeria								A			D			G
Andorra								A			D			G
Angola								A			D			
Antigua and Barbuda								A			D			G
Argentina	A	B		D		F		A	B		D			G
Armenia								A			D			G
Australia	A			D			G	A		C	D		F	G
Austria	A		C	D		F		A		C	D		F	G
Azerbaijan								A			D			G
Bahamas								A		C	D			G
Bahrain								A			D			G
Bangladesh								A			D			G
Barbados								A			D			G
Belarus	A						G	A			D			G
Belgium	A		C	D		F		A	B	C	D	E	F	G
Belize								A			D			G
Benin				D		F		A			D			G
Bhutan								A			D			G
Bolivia (Plurinational State of)				D				A			D			G

State	Signature, succession to signature							Ratification, accession or succession						
	A	B	C	D	E	F	G	A	B	C	D	E	F	G
Bosnia and Herzegovina					E	F		A	B	C	D			G
Botswana								A	B	C	D	E	F	G
Brazil	A			D	E			A			D			G
Brunei Darussalam								A			D			G
Bulgaria	A						G	A		C	D	E	F	G
Burkina Faso				D		F		A			D		F	G
Burundi								A						G
Cabo Verde								A			D			G
Cambodia								A	B	C	D			G
Cameroon				D	E	F		A			D			G
Canada	A						G	A			D			G
Central African Republic	A	B	C	D		F		A	B	C				G
Chad								A						
Chile	A			D		F		A			D			G
China								A			D			G
Colombia	A		C	D	E	F		A			D			G
Comoros								A						G
Congo				D	E	F		A						
Cook Islands														
Costa Rica	A			D				A		C	D			G
Côte d'Ivoire				D		F		A						G
Croatia								A			D			G
Cuba	A			D				A			D			G
Cyprus								A			D			G
Czechia								A			D			G
Democratic People's Republic of Korea								A			D			G
Democratic Republic of the Congo	A			D	E	F		A	B	C	D			G
Denmark	A	B	C	D	E	F	G	A	B	C	D	E	F	G
Djibouti								A			D			G
Dominica								A		C	D			G
Dominican Republic	A	B	C	D	E	F		A	B	C	D	E	F	G
Ecuador	A		C	D			G	A		C	D			G
Egypt								A	B		D	E		G
El Salvador								A			D			G
Equatorial Guinea								A		C	D			G
Eritrea								A			D			
Estonia								A	B	C	D	E	F	G
Eswatini								A						G
Ethiopia								A						G
Fiji								A		C	D			G
Finland	A	B	C	D	E	F	G	A	B	C	D	E	F	G

State	Signature, succession to signature							Ratification, accession or succession						
	A	*B*	*C*	*D*	*E*	*F*	*G*	*A*	*B*	*C*	*D*	*E*	*F*	*G*
France	A		C	D		F		A		C	D		F	G
Gabon				D		F		A	B	C	D	E	F	G
Gambia								A			D			
Georgia								A			D			G
Germany	A	B	C	D	E	F	G	A	B	C	D	E	F	G
Ghana	A	B	C	D	E	F		A			D	E		G
Greece	A							A			D			G
Grenada								A			D			G
Guatemala	A						G	A			D			G
Guinea								A	B	C	D			G
Guinea-Bissau								A						G
Guyana								A			D			G
Haiti								A			D			G
Holy See	A			D				A			D			G
Honduras								A			D			G
Hungary	A						G	A		C	D		F	G
Iceland							G	A	B	C	D	E	F	G
India								A	B	C	D	E	F	G
Indonesia								A	B		D	E		
Iran (Islamic Republic of)	A	B	C	D				A	B	C	D	E	F	G
Iraq	A	B	C					A	B	C	D	E		G
Ireland	A		C	D		F		A			D			G
Israel	A		C	D				A						G
Italy	A	B	C	D	E	F	G	A	B	C	D	E	F	G
Jamaica								A			D			G
Japan	A		C					A		C	D		F	G
Jordan								A			D			G
Kazakhstan								A			D			G
Kenya								A	B	C	D	E	F	G
Kiribati								A			D			G
Kuwait				D	E	F		A		C	D			G
Kyrgyzstan								A			D			G
Lao People's Democratic Republic								A	B	C	D	E	F	G
Latvia								A			D			G
Lebanon	A	B	C	D		F		A			D			G
Lesotho								A			D			G
Liberia	A			D	E	F		A	B	C	D			G
Libya								A	B		D			G
Liechtenstein	A		C	D		F		A		C	D		F	G
Lithuania								A		C	D		F	G
Luxembourg	A		C	D		F		A		C	D		F	G
Madagascar								A	B	C	D	E	F	G

State	Signature, succession to signature							Ratification, accession or succession						
	A	*B*	*C*	*D*	*E*	*F*	*G*	*A*	*B*	*C*	*D*	*E*	*F*	*G*
Malawi								A	B	C	D	E	F	G
Malaysia								A	B	C	D			G
Maldives								A			D			G
Mali								A			D			G
Malta								A		C	D			G
Marshall Islands								A			D			G
Mauritania								A			D			G
Mauritius								A		C	D		F	G
Mexico	A			D				A			D		F	G
Micronesia (Federated States of)								A			D			G
Monaco								A			D			G
Mongolia							G	A			D			G
Montenegro					E	F		A	B	C	D			G
Morocco								A	B		D	E		G
Mozambique								A			D			G
Myanmar								A	B		D			G
Namibia								A			D			G
Nauru								A		C	D	E		G
Nepal								A	B	C	D	E	F	G
Netherlands								A	B	C	D	E	F	G
New Zealand	A		C					A	B	C	D	E	F	G
Nicaragua							G	A	B	C	D	E	F	G
Niger				D		F		A	B	C	D	E	F	G
Nigeria	A							A			D			G
Niue														G
Norway	A	B	C	D	E	F	G	A	B	C	D	E	F	G
Oman								A	B	C	D	E	F	G
Pakistan	A							A		C	D		F	G
Palau														G
Panama	A			D	E	F		A	B	C	D	E	F	G
Papua New Guinea								A			D			G
Paraguay							G	A	B	C	D	E	F	G
Peru				D		F		A			D		F	G
Philippines	A	B	C	D		F		A	B	C	D	E	F	G
Poland	A			D			G	A			D			G
Portugal								A			D			G
Qatar								A			D			G
Republic of Korea	A	B	C					A	B	C	D	E	F	G
Republic of Moldova								A			D			G
Romania	A						G	A		C	D		F	G
Russian Federation	A						G	A			D			G
Rwanda							G	A			D			G

State	Signature, succession to signature							Ratification, accession or succession						
	A	*B*	*C*	*D*	*E*	*F*	*G*	*A*	*B*	*C*	*D*	*E*	*F*	*G*
Saint Kitts and Nevis								A			D			G
Saint Lucia								A			D			G
Saint Vincent and the Grenadines								A			D			G
Samoa								A			D			
San Marino	A							A						G
Sao Tome and Principe								A			D			G
Saudi Arabia								A			D			G
Senegal	A	B						A			D	E	F	G
Serbia					E	F		A	B	C	D			G
Seychelles								A		C	D		F	G
Sierra Leone								A			D			G
Singapore								A			D			G
Slovakia								A		C	D		F	G
Slovenia								A		C	D			G
Solomon Islands														
Somalia								A			D			
South Africa	A							A			D			G
South Sudan														
Spain								A		C	D		F	G
Sri Lanka	A							A	B	C	D			G
State of Palestine								A		C	D			G
Sudan								A			D			G
Suriname								A	B	C	D	E	F	
Sweden	A	B	C	D	E	F	G	A	B	C	D	E	F	G
Switzerland	A		C	D		F		A	B	C	D	E	F	G
Syrian Arab Republic								A			D			G
Tajikistan								A			D			G
Thailand	A	B						A	B		D	E		G
The former Yugoslav Republic of Macedonia								A	B	C	D			G
Timor-Leste								A			D			
Togo								A			D			G
Tonga								A			D			G
Trinidad and Tobago								A			D			G
Tunisia							G	A	B		D	E		G
Turkey								A			D			G
Turkmenistan								A			D			G
Tuvalu								A			D			
Uganda								A						G
Ukraine	A						G	A			D			G
United Arab Emirates								A			D			G

State	Signature, succession to signature							Ratification, accession or succession						
	A	*B*	*C*	*D*	*E*	*F*	*G*	*A*	*B*	*C*	*D*	*E*	*F*	*G*
United Kingdom of Great Britain and Northern Ireland	A		C	D		F	G	A		C	D		F	G
United Republic of Tanzania	A	B	C					A	B	C	D			
United States of America	A		C	D			G	A		C	D			G
Uruguay	A			D		F		A			D			G
Uzbekistan								A			D			G
Vanuatu											D			
Venezuela (Bolivarian Republic of)	A			D				A			D			G
Viet Nam								A			D	E	F	G
Yemen								A			D			G
Zambia								A			D			G
Zimbabwe								A			D			

United Nations A/73/190

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Seventy-third session
Item 85 of the preliminary list*
Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

Repertory of Practice of United Nations Organs and *Repertoire of the Practice of the Security Council*

Report of the Secretary-General

Summary

In conformity with General Assembly resolution 72/118, the present report provides an outline of the progress made by the Secretariat since the previous report (A/72/184) in updating the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*. The Assembly is invited to take action in the light of the conclusions drawn in paragraphs 17 and 28.

* A/73/50.

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I. Introduction

1. The present report has been prepared pursuant to General Assembly resolution 72/118. It provides information on the progress made by the Secretariat since the previous report (A/72/184) in updating the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*. It examines the respective mandates and workflow in the preparation of these publications, in printed and electronic forms, and gives an overview of the available resources and existing modalities of cooperation with academic institutions, associate experts, temporary staff and consultants, as appropriate. The Assembly is invited to take action in the light of the conclusions drawn in paragraphs 17 and 28.

II. *Repertory of Practice of United Nations Organs*

A. Mandate and preparation of supplements to the *Repertory*

2. The *Repertory of Practice of United Nations Organs* was originally mandated by the General Assembly in its resolution 796 (VIII) of 27 November 1953. Its purpose is to document the Organization's application and interpretation of each individual Article of the Charter of the United Nations, to form a legislative history contributing to the knowledge and understanding of the Charter as applied in the practice of the organs of the United Nations.

3. Bearing in mind the call made upon the Secretary-General, in paragraph 17 of General Assembly resolution 72/118, to address, effectively and on a priority basis, the backlog in the preparation of volume III of the *Repertory*, the Codification Division of the Office of Legal Affairs, acting as coordinator for the preparation of the *Repertory*, sought to significantly reduce that backlog, in particular regarding volume III, Supplements Nos. 7 to 9 (1985–1999). Research and drafting of a study on Article 23 of the Charter of the United Nations is under preparation with the assistance of Peking University. Furthermore, two previously completed studies — one on Article 33 of the Charter, prepared with the assistance of interns in the Codification Division, and one on Article 49 of the Charter, prepared with the assistance of a consultant — have been submitted for final review to the responsible author departments, namely, the Department of Political Affairs and the Department of Peacekeeping Operations, respectively. Single studies for each of the aforementioned provisions of the Charter address the entire period covered by Supplements Nos. 7 to 9, that is, 1985 to 1999.

4. Progress has also been achieved in the preparation of studies for volumes III and IV of Supplement No. 10 (2000–2009). As is the case for Supplements Nos. 7 to 9, a study on Article 49 of the Charter for volume III, prepared with the assistance of a consultant, has been submitted to the responsible author department, the Department of Peacekeeping Operations, for final review. Two studies, on Articles 55 (c) and 56 for volume IV, are also currently under review by the responsible author department, the Office of the United Nations High Commissioner for Human Rights. In addition, the Department of Economic and Social Affairs has selected a consultant to prepare a study on Article 58 for volume IV, that study being among those falling under its responsibility. Work also continues in relation to studies on Articles 104 and 105 for volume VI, in preparation by the Office of the Legal Counsel in the Office of Legal Affairs.

5. Further to the decision of the Interdepartmental Committee on Charter Repertory, taken in 2015, that Supplement No. 11 would cover the period 2010–2015 (see A/70/295, para. 5), six studies, on Articles 33, 39, 50 and 51 for volume III and

on Articles 92 and 99 for volume VI, were researched and drafted with the assistance of the Faculty of Law at the University of Ottawa. Two studies, on Articles 55 (c) and 56, for volume IV, are also under preparation by the responsible author department, the Office of the United Nations High Commissioner for Human Rights. Furthermore, relevant parts of a study on Article 101 for volume VI, which was researched and drafted with the assistance of a consultant in the Office of Human Resources Management, were reviewed by the Office of the United Nations Ombudsman and Mediation Services, the Office of Staff Legal Assistance, the Management Evaluation Unit and the Office of Administration of Justice. The text of the study was thereafter made accessible on the *Repertory* website.

6. As is customary, the Department of Public Information and the Dag Hammarskjöld Library played an important role in supporting the research on the *Repertory*.

7. During the period under review, volume I of Supplement No. 10 (2000–2009) was published in English and French. All studies included in this volume were accordingly posted on the *Repertory* website.

8. The current status of the publication is as follows: 30 volumes have been published[1] and 14 have been finalized and submitted for translation and publication.[2] Consequently, from among the 57 volumes of which the publication as a whole (original *Repertory* and Supplements Nos. 1 to 11 thereto) should consist, work remains to be completed on 13, 6 of which pertain to Supplement No. 11 (2010–2015), on which work has begun (see para. 5 above), and 4 to Supplement No. 10 (2000–2009), which are at different stages of preparation (see para. 4 above). The other three volumes on which work remains to be completed correspond to volume III of Supplements Nos. 7 to 9.

9. Annex I to the present report sets out the responsibilities of individual Secretariat units for the preparation of *Repertory* studies on individual Articles of the Charter. Annex II provides information on the status of the *Repertory*.

B. Availability of *Repertory* studies on the Internet

10. Studies from 44 complete volumes, including the 14 volumes in processing for publication, are available on the United Nations website for the *Repertory* (http://legal.un.org/repertory). Advance versions of several studies on individual Articles for volume III of Supplements Nos. 7 to 9, as well as a considerable number of studies for Supplement No. 10 that have been finalized and are awaiting completion of the respective volumes, continue to be made accessible on the website. This is indeed also done for newly completed studies for Supplement No. 11. The electronic version of the *Repertory* includes a full-text search feature, providing users with the opportunity to search all the studies instantaneously for any word or combination of words in the three languages of the publication (English, French and Spanish).

11. Currently, all studies available in English are on the Internet, and most of them are also available on the Internet in French and Spanish. Finalized studies awaiting publication are placed on the Internet in the language in which they have been prepared (English for most of them and French for some of them). The Secretariat

[1] *Repertory* and Supplements Nos. 1 to 6 (1946–1984), for a total of 27 volumes, volumes V and VI of Supplement No. 7 (1985–1988) and volume I of Supplement No. 10 (2000–2009).

[2] Volumes I, II and IV of Supplement No. 7 (1985–1988), volumes I, II, IV, V and VI of Supplements Nos. 8 (1989–1994) and 9 (1995–1999) and volume II of Supplement No. 10 (2000–2009).

will continue to make available electronically all three language versions of the finalized *Repertory* studies.

C. Cooperation with academic institutions and sponsoring of associate experts

12. The well-established cooperation for the past eight years with the Faculty of Law at the University of Ottawa contributed to the preparation of six studies, on Articles 33, 39, 50 and 51, for volume III, and on Articles 92 and 99, for volume VI, of Supplement No. 11 (see para. 5 above).

13. With a view to revitalizing cooperation with academic institutions and pursuing a diverse geographical spread, the Codification Division, acting as coordinator for the preparation of the *Repertory*, continued to call upon permanent missions to the United Nations to identify academic institutions that may be interested in contributing to the preparation of studies. To date, the Codification Division has had preliminary contacts with four universities: two in the South Pacific region, one in the Latin American and Caribbean region and one in the Western European and other States region. The Codification Division also invited academic institutions to which members of the International Law Commission are affiliated to consider contributing to the preparation of studies. This has led to the establishment of a framework of cooperation with Peking University, as indicated in paragraph 3 above.

D. Trust fund

14. In its resolution 72/118, the General Assembly reiterated its call for voluntary contributions to the trust fund established pursuant to its resolution 59/44, in order to eliminate the backlog in the *Repertory*. Accordingly, a note verbale was sent to all permanent missions to the United Nations, reminding them of the possibility of making voluntary contributions to the trust fund and inviting them to bring the question of funding for the *Repertory* to the attention of private institutions and individuals that might wish to assist in that regard. Since the submission of the previous report of the Secretary-General on 21 July 2017, no new contributions have been received by the trust fund.

15. The use of consultants for the preparation of studies pertaining to volumes that are nearing completion is envisaged, as indicated in paragraph 4 above. Additional contributions to the trust fund are therefore strongly encouraged, so as to allow the Secretariat to continue to eliminate the backlog in the *Repertory*.

E. Recommendations of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

16. The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization considered the question of the *Repertory* and the *Repertoire* at its session held from 20 to 28 February 2018. In paragraph 74 of its report (A/73/33), the Special Committee recommended, with regard to the *Repertory*, that the General Assembly should commend the Secretary-General for the progress made in the preparation of studies, including the use of the internship programme of the United Nations and cooperation with academic institutions for that purpose; encourage Member States to identify academic institutions that have the capacity to contribute to the preparation of studies for the

Repertory and to provide the contact details of such institutions; note with appreciation the contributions made by Member States to the trust fund for the elimination of the backlog in the *Repertory*; reiterate its call for voluntary contributions to the trust fund for the elimination of the backlog in the *Repertory*, as well as the sponsoring, on a voluntary basis and with no cost to the United Nations, of associate experts to assist in the updating of the publication; call upon the Secretary-General to continue his efforts towards updating the publication and making it available electronically in all its language versions, and encourage the continued updating of the website for the *Repertory*; note with concern that the backlog in the preparation of volume III of the *Repertory*, although slightly reduced, had not been eliminated, and call upon the Secretary-General to address that issue effectively and on a priority basis, while commending the Secretary-General for progress made in reducing the backlog; and reiterate the responsibility of the Secretary-General for the quality of the *Repertory*.

F. Conclusions

17. **With regard to the *Repertory*, in the light of the foregoing, the General Assembly may wish:**

(a) **To note the current status of the publication, including the progress made in the preparation of *Repertory* studies and in their posting on the Internet in three languages (English, French and Spanish);**

(b) **To consider the recommendations of the Special Committee (see para. 16 above) concerning the use of the internship programme of the United Nations and the cooperation with academic institutions for the preparation of studies; the identification of academic institutions having the capacity to contribute to the preparation of studies for the *Repertory*; the voluntary contributions to the trust fund for the elimination of the backlog in the *Repertory* so as to further support the Secretariat in carrying out the effective elimination of that backlog; the sponsoring, on a voluntary basis, and at no cost to the United Nations, of associate experts to assist in the updating of the publication; the call upon the Secretary-General to continue his efforts towards updating the publication and making it available electronically in all its language versions, the continued updating of the website for the *Repertory* and the call to continue to address effectively and on a priority basis the elimination of the backlog in volume III of the *Repertory*; and the reiteration of the responsibility of the Secretary-General for the quality of the *Repertory*;**

(c) **To note the progress made towards the elimination of the backlog through the utilization of the trust fund; and to strongly encourage States to make additional contributions to the trust fund.**

III. *Repertoire of the Practice of the Security Council*

A. Mandate and preparation

18. The *Repertoire of the Practice of the Security Council*, originally mandated by the General Assembly in its resolution 686 (VII) of 5 December 1952, provides a record of the evolving practice and procedure of the Security Council in the framework of the Charter of the United Nations and the provisional rules of procedure of the Security Council. Most recently, by its resolution 72/118, the General Assembly called upon the Secretary-General to continue to follow the modalities outlined in paragraphs 102 to 106 of his report dated 18 September 1952 (A/2170).

19. In paragraph 12 of resolution 72/118, the General Assembly commended the Secretary-General for the progress made towards updating the *Repertoire*. In paragraph 16, the Assembly called upon the Secretary-General to continue his efforts towards updating the *Repertoire* and making it available electronically in all its language versions.

20. During the reporting period, pursuant to the mandate provided by the General Assembly, the Secretariat has made sustained progress in the preparation of the Supplements to the *Repertoire*. The main focus of the work of the Secretariat during that period has been the drafting of the twentieth Supplement (2016–2017), the advance version of which is on course towards being completed in the third quarter of 2018. The Secretariat has also made available the advance version of the nineteenth Supplement (2014–2015), while the complete edited version is expected to be finalized and made available on the Security Council website by the end of 2018.

21. As a result of the efficiencies achieved in the past year, the Secretariat is aiming at having the next Supplement of the *Repertoire*, namely the twenty-first Supplement, cover a one-year period, as opposed to a multi-year period as was done in the past. The foundational groundwork and research for the drafting of the twenty-first Supplement (2018) is being systematically conducted through the contemporaneous recording of the decisions and the evolving practice of the Security Council. Technological solutions, made possible through extrabudgetary funding secured by the Secretariat during the reporting period, continue to be efficiently leveraged to ensure the timeliness and accuracy of this work. The Secretariat expects to complete the drafting process for the twenty-first Supplement (2018) in the third quarter of 2019, with a view to making it available online in its advance version immediately thereafter.

22. The Secretariat has maintained its steadfast commitment to producing the *Repertoire* in an expeditious manner, optimizing the limited resources available through efficiency-enhancing initiatives. Notwithstanding the challenges in terms of the complex editing, translation, indexing and publishing of the Supplements, there continue to be improvements in the requisite processes and optimized cooperation between the different Secretariat offices vested with this responsibility to overcome resource constraints and reduce delays in publication. The Secretariat has efficiently utilized extrabudgetary resources to develop a modern, secure, web-enabled database application, which will be rolled out in phases starting at the end of 2018. The new database will allow for the progressive automation of data collection and the enhancement of data analysis, thereby significantly facilitating the research process and the drafting of the *Repertoire*. Furthermore, the training of staff and the increased use of the United Nations internship programme have also enhanced the capacity of the Secretariat to expedite the preparation of the *Repertoire*, while ensuring the highest standards of accuracy and quality control.

B. Availability of *Repertoire* studies on the Internet

23. The Secretariat has continued to post advance versions of drafted Supplements on the *Repertoire* section of the Security Council website to facilitate access to the latest information available. The website also offers a broad range of resources used in the preparation of the *Repertoire*, reflecting the latest practice of the Security Council in relation to the mandates of peace operations and the relevant provisions of decisions on cross-cutting agenda items such as children and armed conflict, women and peace and security and the protection of civilians in armed conflict. In early January 2018, the Secretariat made available, on the *Repertoire* section of the Security Council website, the "Highlights of Security Council practice" for 2017, providing interactive and statistical information on the work of the Council

relating to meetings, missions, agenda items, decisions and voting and subsidiary bodies. Since September 2017, the Secretariat has leveraged similar technologies to showcase monthly statistics on the work of the Council. These information resources have served to improve the ability of researchers and others interested in the work of the Council to systematically follow and analyse its practice. The Secretariat has also launched a project to modernize the Security Council website, including the *Repertoire* section, with an improved user interface and better website management technology. The modernization of the website will ease and increase access to information on the *Repertoire*.

24. The Secretariat has continued to fulfil its advisory role through the provision of information in response to questions, received both directly and through the *Repertoire* section of the Security Council website, relating to the procedural and constitutional issues of the Council and its subsidiary organs. During the reporting period, the number of such queries from Member States, as well as from officials of the United Nations system, representatives of other international and non-governmental organizations, students, academic scholars and researchers and members of the private sector, increased significantly. In additional, the Secretariat has provided high quality research and analysis for internal policy development and reports and undertaken several outreach programmes and contributed to the familiarization of new Council members with respect to the evolving procedure, practice and working methods of the Council.

C. Publication in language versions (print and electronic)

25. Pursuant to General Assembly resolution 55/222, the twelfth to seventeenth Supplements (1993–2011) have been made available on the *Repertoire* section of the Security Council website in all of the official languages. The eighteenth Supplement (2012–2013) is scheduled to be made available by the third quarter of 2018 in all six official languages. The Department for General Assembly and Conference Management continues to make every effort to ensure that the Secretariat is able to post the latest Supplements of the *Repertoire* in the six official languages as soon as they are available.

D. Resources

26. The preparation and publication of the *Repertoire*, as well as the maintenance of its website in all official languages, would not have been possible without the continuing support of the General Assembly. In an environment of financial constraint, voluntary contributions to the trust fund for the updating of the *Repertoire* remain a critical element for sustaining the progress made thus far, improving accessibility to the practice of the Security Council and maintaining the website.

27. The infusion of extrabudgetary resources has enabled the Secretariat to retain the services of temporary staff assisting in the preparation of the *Repertoire*. Since the previous report, a contribution to the trust fund has been received from China. In addition, Italy has contributed by sponsoring an associate expert in the Security Council Practices and Charter Research Branch, who has made a very valuable contribution to advancing the work on the *Repertoire*. In order to continue that progress, the Secretary-General calls on Member States to further support the work of the Secretariat in updating the *Repertoire* through voluntary contributions to the trust fund and the sponsoring of associate experts.

E. Conclusions

28. **With respect to the *Repertoire of the Practice of the Security Council*, in the light of the foregoing, and the recommendations made by the Special Committee at its session held from 20 to 28 February 2018, the General Assembly may wish:**

(a) **To note the progress made towards updating the *Repertoire*;**

(b) **To note with appreciation the contributions made by Member States to the trust fund for the updating of the *Repertoire*;**

(c) **To reiterate its call for voluntary contributions to the trust fund for the updating of the *Repertoire* and the sponsoring, on a voluntary basis and with no cost to the United Nations, of associate experts to assist in the updating of the publication;**

(d) **To call upon the Secretary-General to continue his efforts towards updating the publication and making it available electronically in all its language versions;**

(e) **To reiterate the responsibility of the Secretary-General for the quality of the *Repertoire*, and to call upon the Secretary-General to continue to follow the modalities outlined in paragraphs 102 to 106 of his report dated 18 September 1952 (A/2170).**

Annex I

Secretariat units bearing primary responsibility for the preparation of *Repertory* studies on individual Articles of the Charter of the United Nations[a]

Department	*Repertory volume*
Office of Legal Affairs	Volume I: Articles 1 to 7
	Volume II: Articles 13 (1) (a), 18, 19 and 22
	Volume VI: Articles 92 to 99, 102 to 105 and 108 to 111
Department of Political Affairs	Volume II: Articles 10, 12, 13 (1) (a), 14 and 16
	Volume III: Articles 23 to 39 and 107
	Volume V: Articles 73 to 85, 87 and 88
Department of Peacekeeping Operations	Volume III: Articles 40 to 54 and 106
Office for Disarmament Affairs	Volume II: Article 11
Department for General Assembly and Conference Management	Volume II: Articles 9, 15, 20 and 21
	Volume IV: Articles 60, 61, 62 (3) and (4), 65 to 69 and 72
	Volume V: Articles 86 and 89 to 91
Department of Management	Volume II: Article 17
	Volume VI: Articles 100 (1) and 101
Department of Management with Office of Legal Affairs	Volume VI: Article 100 (2)
Department of Economic and Social Affairs	Volume II: Articles 8[b] and 13 (1) (b) and (2)
	Volume IV: Articles 55 (a) and (b), 57 to 59, 62 (1), 63, 64, 70 and 71
Office of the United Nations High Commissioner for Human Rights	Volume II: Article 13 (1) (b)
	Volume IV: Articles 55 (c), 56 and 62 (2)
Office for Outer Space Affairs	Volume II: Article 13 (1) (a)

[a] This distribution is the result of several decisions of the Interdepartmental Committee on Charter Repertory taken at various times since 1996 and is subject to review by the Committee.

[b] The Department of Management (Office of Human Resources Management) is responsible for the preparation of studies on Article 8 for the period up to and including 1996. For the period from 1997 onward, that responsibility falls to the Department of Economic and Social Affairs.

Annex II

Status of the *Repertory of Practice of United Nations Organs* (July 2018)

Volumes published and on the Internet	Volumes submitted for publication and on the Internet	Studies on the Internet (pertaining to volumes not submitted for publication)	Studies in preparation or in review

Note: The organization of studies in volumes, as indicated below, relates to Supplements Nos. 6 to 11. It varies for the original *Repertory* and Supplements Nos. 1 to 5.

		Supplements										
Volumes, Articles	*Original Repertory*	*1*	*2*	*3*	*4*	*5*	*6 1979 1984*	*7 1985 1988*	*8 1989 1994*	*9 1995 1999*	*10 2000 2009*	*11 2010 2015*
Volume I							I	I	I	I	I	I
Articles 1, 2 (1) to (3), (5) and (6), 3, 5, 6, 7 and 8												
Articles 2 (4) and (7) and 4												
Volume II							II	II	II	II	II	II
Articles 9 to 12 and 13 (1) (a) (first part of the sentence), (1) (b) and (2) and 14 to 22												
Article 13 (1) (a) (second part of the sentence)												
Volume III							III	III	III	III	III	III
Article 23 (1, second phrase) and (2)												
Articles 23 (1, first phrase) and (3), 24 to 32, 34, 36, 37, 38, and 40												
Articles 33 and 41												
Article 35												
Articles 39, 42 and 50												
Articles 43 to 48												
Articles 49, 52, 53 and 54												
Article 51												
Volume IV							IV	IV	IV	IV	IV	IV
Articles 55 (a) and (b), 57, 62 (2) and 63												
Articles 55 (c) and 56												
Articles 58 to 61, 62 (1), (3) and (4) and 64 to 72												
Volume V							V	V	V	V	V	V
Article 73												
Articles 74 to 85, 87 and 88												
Articles 86 and 89 to 91												
Volume VI							VI	VI	VI	VI	VI	VI
Articles 92, 96 and 99												
Articles 93 to 95, 97, 98, 102, 103 and 106 to 111												
Articles 100 and 101												
Articles 104 and 105												

Studies prepared from 1954 to 1980

Studies prepared from 1996 to 2018

Annex III

Status of the *Repertoire of the Practice of the Security Council* (July 2018)

Supplements published and posted on the Internet at www.un.org/en/sc/repertoire	Advance version available on the Internet	Parts in preparation

A. Status of the completed *Repertoire* Supplements

Supplement	*Status*	*Languages*
Original *Repertoire* and Supplements I–IX 1946–1984		English, French
Supplements X (1985–1988) and XI (1989–1992)[a]		Arabic, Chinese, English, French, Russian, Spanish
Supplement XII (1993–1995)		Arabic, Chinese, English, French, Russian, Spanish
Supplement XIII (1996–1999)		Arabic, Chinese, English, French, Russian, Spanish
Supplement XIV (2000–2003)		Arabic, Chinese, English, French, Russian, Spanish
Supplement XV (2004–2007)		Arabic, Chinese, English, French, Russian, Spanish
Supplement XVI (2008–2009)		Arabic, Chinese, English, French, Russian, Spanish
Supplement XVII (2010–2011)		Arabic, Chinese, English, French, Russian, Spanish
Supplement XVIII (2012–2013)		Arabic, Chinese, English, French, Russian, Spanish
Supplement XIX (2014–2015)		English

[a] As mandated by the General Assembly in resolution 55/222, these Supplements and future Supplements to the *Repertoire* are to be published in all official languages of the United Nations.

B. Status of the *Repertoire* Supplements in preparation

	Parts (procedural and constitutional)									
	I Overview	*II Provisional rules of procedure*	*III Purposes and principles of the Charter*	*IV Relations with other United Nations organs*	*V Functions and powers of the Security Council*	*VI Pacific settlement of disputes*	*VII Actions with respect to breaches of the peace*	*VIII Regional arrangements*	*IX Subsidiary organs. Committees other bodies*	*X Subsidiary organs: peacekeeping and peacebuilding*
Supplement XX (2016–2017)	[redacted]									
Supplement XXI (2018)	[redacted]									

United Nations A/73/191

General Assembly

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17 August 2018

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Seventy-third session

Request for the inclusion of a supplementary item in the agenda of the seventy-third session

Observer status for the European Public Law Organization in the General Assembly

Letter dated 17 August 2018 from the Chargé d'affaires a.i. of the Permanent Mission of Portugal to the United Nations addressed to the Secretary-General

In accordance with rule 14 of the rules of procedure of the General Assembly, I have the honour to request the inclusion in the agenda of the seventy-third session of the General Assembly of a supplementary item entitled "Observer status for the European Public Law Organization in the General Assembly".

Pursuant to rule 20 of the rules of procedure of the General Assembly, an explanatory memorandum (annex I) and a draft resolution (annex II) are attached to the present letter.

I should be grateful if you would have the present letter and its annexes circulated as a document of the General Assembly.

(*Signed*) Nuno **Mathias**
Chargé d'affaires a.i.

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Annex I

Explanatory memorandum

A. The European Public Law Organization fulfils the legal criteria for observer status in the General Assembly

In its decision 49/426 of 9 December 1994, adopted without a vote, the General Assembly, on the recommendation of the Sixth Committee and taking note of the oral report presented to the Sixth Committee on 25 November 1994 by the Chair of the Working Group on the question of criteria for the granting of observer status in the General Assembly, decided that the granting of observer status in the General Assembly should in the future be confined to States and to those intergovernmental organizations whose activities cover matters of interest to the Assembly.

The European Public Law Organization was founded on 21 June 2007 under an international treaty entitled the "Agreement for the Establishment and Statute of the European Public Law Organization", which was deposited with the United Nations on 25 August 2008. In accordance with the treaty, the organization was established as an intergovernmental international organization to create and disseminate knowledge in the area of public law sensu lato and to promote universal European values for law and governance through a dialogue among civilizations. In this context, it has already developed, organized, promoted and supported more than 250 educational, research, training, institution-building and other activities and has provided assistance to institutions in more than 70 countries. In the field of education, the organization has established an international university, the European Law and Governance School, with full undergraduate and postgraduate curricula. Its headquarters are located in Athens, and it has four branches and nine regional offices in 12 different States across the globe.

In order to accomplish its purposes, as provided in article II (2) of its statute, the organization promotes cooperation with other institutions, organizations and bodies, in particular organizations in the United Nations system. Recently, the organization has had the honour of being granted observer status to the International Labour Organization (ILO), the World Intellectual Property Organization (WIPO) and the International Organization for Migration (IOM) by decision of their governing bodies. Furthermore, since 2012, the organization has become a partner in the Global Forum on Law, Justice and Development of the World Bank, having endorsed the joint declaration and statement of commitment on supporting the Global Forum on Law, Justice and Development. Since 2016, the organization has also worked in close collaboration with the United Nations Office on Drugs and Crime (UNODC) in Vienna on the basis of a memorandum of understanding aimed at furthering the shared objectives of the two institutions in regard to anti-corruption courses, projects and programmes.

B. Membership

As of 1 April 2018, 13 States members of the United Nations have signed and ratified the constitutive treaty of the organization and are thus full members. These are, by order of ratification, Greece, Italy, Cyprus, the Republic of Moldova, Armenia, Bosnia and Herzegovina, Serbia, Albania, Georgia, Romania, Hungary, Portugal and Bulgaria. Four more Member States, namely Azerbaijan, Estonia, France and Ukraine, hold seats on the Board of Directors of the organization while their ratification is pending, thanks to a rule of the treaty concerning matters of transition, while other countries have officially or unofficially declared their intention to ratify the treaty.

C. Governance

The Board of Directors and the Assembly, which constitute the organization's main governing bodies, comprise all aforementioned States. Representatives from the European Commission and the Council of Europe also sit on the Board. In addition, to ensure broad cooperative relations, three public authorities and 70 universities and research institutions sit on the Board with an advisory role. The Board approves the organization's workplan and budget, reviews its activities and supervises its technical, research and administrative activities. The organization is also governed by an executive committee and a director, and has developed a full system of governance, including an administrative court, an ombudsman, a board of auditors and an ethics committee.

D. Advantages of granting observer status to the European Public Law Organization

The various activities of the organization advance in a practical manner many of the objectives of the United Nations and help it to fulfil its purpose, particularly in the field of public law, and with regard to the wider dissemination and appreciation of governance systems, the rule of law and human rights around the globe. It is the mission of the organization to collaborate with the United Nations and to support its work and its officials in this endeavour. Moreover, the organization already maintains an ongoing collaboration with the specialized agencies and programmes of the United Nations, such as the World Bank Group, WIPO, UNODC and ILO.

The activities of the organization cover matters of interest to the General Assembly. The actions of the two bodies are complementary, particularly in areas such as the dissemination of scientific knowledge, education, training, knowledge transfer and institution-building worldwide. Both institutions actively promote dialogue between different countries and civilizations and propose mutually beneficial methods of cooperation on objectives that benefit societies as a whole. Building a closer link with the organization would provide the United Nations with additional resources for its work on the rule of law, human rights and development.

The granting of observer status will greatly benefit the organization's ability to achieve its goals. The organization will be able to follow closely the deliberations in the General Assembly and gain access to contacts and information in a forum that often deals indirectly with adherence to the rule of law in international transactions and the improvement of the use of legal resources in the development process. The gaining of observer status would also initiate a closer interaction with all the relevant organs of the United Nations system, as appropriate, for the furtherance of aims common to the United Nations and the organization.

Granting the organization observer status in the General Assembly would be a natural development emerging from the current situation. The organization would gain a better understanding of the global activities of the United Nations in areas linked to the promotion of the rule of law and universal values, while the United Nations would benefit from the direct contribution and expertise of the organization as a research and training institution and from its more coordinated participation in the United Nations, both centrally and through direct relations with the specialized agencies.

Annex II

Draft resolution

Observer status for the European Public Law Organization in the General Assembly

The General Assembly,

Wishing to promote cooperation between the United Nations and the European Public Law Organization,

1. *Decides* to invite the European Public Law Organization to participate in the sessions and the work of the General Assembly in the capacity of observer;

2. *Requests* the Secretary-General to take the action necessary to implement the present resolution.

United Nations A/73/192

General Assembly

Distr.: General
20 August 2018

Original: English

Seventy-third session

Request for the inclusion of a supplementary item in the agenda of the seventy-third session

The responsibility to protect and the prevention of genocide, war crimes, ethnic cleansing and crimes against humanity

Letter dated 17 August 2018 from the representatives of Afghanistan, Denmark, Guatemala, Japan, the Netherlands, Romania, Rwanda, Ukraine and Uruguay to the United Nations addressed to the Secretary-General

On behalf of the Permanent Missions of Afghanistan, Denmark, Guatemala, Japan, the Netherlands, Romania, Rwanda, Ukraine and Uruguay, we have the honour to request, in accordance with rule 14 of the rules of procedure of the General Assembly, the inclusion in the agenda of the seventy-third session of the General Assembly of a supplementary item entitled "The responsibility to protect and the prevention of genocide, war crimes, ethnic cleansing and crimes against humanity".

In accordance with annex IV, paragraph 18, to the rules of procedure of the General Assembly, we request that the item be referred to the plenary of the Assembly.

In accordance with rule 20 of the rules of procedure of the General Assembly, an explanatory memorandum is attached to the present letter (see annex).

We have the further honour to request that the present letter and its annex be circulated as a document of the General Assembly.

(*Signed*) Mahmoud **Saikal**
Ambassador
Permanent Representative of Afghanistan to the United Nations

(*Signed*) Ib **Petersen**
Ambassador
Permanent Representative of Denmark to the United Nations

(*Signed*) Jorge **Skinner-Klée Arenales**
Ambassador
Permanent Representative of Guatemala to the United Nations

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(*Signed*) Koro **Bessho**
Ambassador
Permanent Representative of Japan to the United Nations

(*Signed*) Karel J. G. **van Oosterom**
Ambassador
Permanent Representative of the Netherlands to the United Nations

(*Signed*) Gheorghe **Necula**
Chargé d'affaires a.i.
Deputy Permanent Representative of Romania to the United Nations

(*Signed*) Valentine **Rugwabiza**
Ambassador
Permanent Representative of Rwanda to the United Nations

(*Signed*) Yuriy **Vitrenko**
Chargé d'affaires a.i.
Deputy Permanent Representative of Ukraine to the United Nations

(*Signed*) Elbio **Rosselli**
Ambassador
Permanent Representative of Uruguay to the United Nations

Annex

Explanatory memorandum

The responsibility to protect was enshrined in paragraphs 138 and 139 of the World Summit Outcome adopted by Heads of State and Government in 2005.

The World Summit Outcome provides that:

> 138. Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability.
>
> 139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter [of the United Nations], to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out.

The General Assembly adopted the 2005 World Summit Outcome in its resolution 60/1.

In January 2009, the Secretary-General submitted his first report on the subject, entitled "Implementing the responsibility to protect" (A/63/677). The Secretary-General's report was considered later that year in the debate organized by the President of the General Assembly on the responsibility to protect. In its resolution 63/308, the Assembly took note of the Secretary-General's report and the Assembly's debate and decided to continue its consideration of the responsibility to protect.

There has, however, been no consideration of the responsibility to protect by the General Assembly as part of its formal agenda until the current, seventy-second, session.

On 25 June and 2 July 2018, 1 regional organization and 79 Member States made statements on behalf of 113 countries. The debate provided an overview of the range of actions that Member States, across all regions, have undertaken to prevent genocide, crimes against humanity, war crimes and ethnic cleansing.

Furthermore, a significant number of Member States welcomed and called for the inclusion of the responsibility to protect as a standing item on the formal agenda of the General Assembly, recognizing that a formal debate allows time for Member State interventions and for States to record their views on the responsibility to protect.

It also encourages a constructive conversation aimed at identifying more common ground on the responsibility to protect, as articulated in the World Summit Outcome.

The inclusion of the responsibility to protect on the formal agenda would also be in line with recommendations of the Secretary-General, who has signalled that the responsibility to protect is a key component of his prevention agenda (see A/71/1016-S/2017/556 and A/72/884-S/2018/525).

We strongly believe that, in the light of this year's debate, continued consideration of the responsibility to protect in the General Assembly will foster further dialogue on steps that the United Nations and Member States can take to prevent genocide, crimes against humanity, war crimes and ethnic cleansing. Therefore, if this request is granted, we also intend to provide the Assembly with the opportunity to decide to include the item in the agenda of its future sessions.

United Nations A/73/193

General Assembly

Distr.: General
20 August 2018

Original: English

Seventy-third session

Request for the inclusion of a supplementary item in the agenda of the seventy-third session

The situation in the temporarily occupied territories of Ukraine

Letter dated 17 August 2018 from the Chargé d'affaires a.i. of the Permanent Mission of Ukraine to the United Nations addressed to the Secretary-General

In accordance with rule 14 of the rules of procedure of the General Assembly, I have the honour to request the inclusion in the agenda of the seventy-third session of the General Assembly of a supplementary item entitled "The situation in the temporarily occupied territories of Ukraine".

In accordance with annex IV, paragraph 18, to the rules of procedure of the General Assembly, I request that the item be referred to the plenary Assembly for consideration.

In line with rule 20 of the rules of procedure of the General Assembly, an explanatory memorandum is attached hereto (see annex).

I have the further honour to request that the present letter and its annex be circulated as a document of the General Assembly.

(*Signed*) Yuriy **Vitrenko**
Chargé d'affaires a.i.
Deputy Permanent Representative of Ukraine to the United Nations

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Annex

Explanatory memorandum

Since 20 February 2014 Ukraine — a founding member of the United Nations — has been facing foreign military aggression. As a result of this wrongful act parts of the sovereign territory of Ukraine (the Autonomous Republic of Crimea and the city of Sevastopol as well as certain territories of Donetsk and Luhansk regions) remain under temporary foreign occupation in violation of the Charter of the United Nations.

The General Assembly, in its resolution 68/262 entitled "Territorial integrity of Ukraine", affirmed its commitment to the sovereignty, political independence, unity and territorial integrity of Ukraine within its internationally recognized borders and called upon all States to desist and refrain from actions aimed at the partial or total disruption of the national unity and territorial integrity of Ukraine, including any attempts to modify Ukraine's borders through the threat or use of force or other unlawful means.

The General Assembly further called upon all States, international organizations and specialized agencies not to recognize any alteration of the status of the Autonomous Republic of Crimea and the city of Sevastopol and to refrain from any action or dealing that might be interpreted as recognizing any such altered status.

The General Assembly, in its resolution 71/205 entitled "Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)", condemning the ongoing temporary occupation of this part of the territory of Ukraine and reaffirming the non-recognition of its annexation, inter alia, welcomed the reports of the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the human rights situation in Ukraine, in which it stated that violations and abuses of human rights continued to take place in the temporarily occupied territory of Ukraine and pointed to the sharp deterioration of the overall human rights situation.

The General Assembly also urged the occupying Power to uphold all of its obligations under applicable international law.

Furthermore, in its resolution 72/190 entitled "Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine", the General Assembly, supporting the commitment by Ukraine to adhere to international law in its efforts to put an end to the foreign occupation, condemned continuing violations, abuses, measures and practices of discrimination against the residents of the temporarily occupied territory of Ukraine by the occupation authorities. The General Assembly also supported the efforts of Ukraine to maintain economic, financial, political, social, informational, cultural and other ties with its citizens in this territory.

In violation of the purposes and principles of the Charter of the United Nations and other applicable norms of international law, as well as contrary to the above-mentioned resolutions of the General Assembly, the foreign military aggression against Ukraine and temporary occupation of parts of the territory of Ukraine persist, leading to the suffering of the people of Ukraine and undermining regional and international peace and security.

According to a conservative estimate by OHCHR, the number of conflict-related casualties in Ukraine currently stands at over 35,000, including more than 10,000 people killed and almost 25,000 injured. In the meantime, the number of internally displaced persons stands at well over 1.5 million.

The sheer scale and far-reaching repercussions of the conflict in and around Ukraine ever more persistently invite increased attention to it and its thorough, comprehensive, in-all-complexity (encompassing political, security, humanitarian,

social, human rights, gender and other dimensions) consideration by the entire United Nations membership.

Being the main deliberative, policymaking and representative organ of the United Nations, the General Assembly is empowered by the Charter of the United Nations to discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations.

It is high time for the General Assembly to uphold these responsibilities with respect to the situation of temporary occupation of parts of the territory of Ukraine. Close attention to this issue with its consideration by the General Assembly has to be consistently maintained until the violations committed as a result of foreign occupation of parts of the territory of Ukraine are duly dealt with and the territorial integrity of Ukraine is fully restored.

United Nations A/73/194

General Assembly

Distr.: General
22 August 2018

Original: English

Seventy-third session

Request for the inclusion of a supplementary item in the agenda of the seventy-third session

Observer status for the Asian Infrastructure Investment Bank in the General Assembly

Letter dated 17 August 2018 from the Chargé d'affaires a.i. of the Permanent Mission of China to the United Nations addressed to the Secretary-General

Upon instructions from the Government of China, which is a founding member of the Asian Infrastructure Investment Bank and its host country, I have the honour to request, under rule 14 of the rules of procedure of the General Assembly, the inclusion in the agenda of the seventy-third session of the General Assembly of a supplementary item entitled "Observer status for the Asian Infrastructure Investment Bank in the General Assembly".

A letter from the Minister of Finance of the People's Republic of China is attached (annex I), together with an explanatory memorandum in support of the above request (annex II) and a draft resolution (annex III) in accordance with rule 20 of the rules of procedure of the General Assembly.

I have the further honour to request that the present letter and its annexes be circulated as a document of the General Assembly.

(*Signed*) **Wu** Haitao
Chargé d'affaires a.i.
Ambassador and Deputy Permanent Representative
of the People's Republic of China to the United Nations

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Annex I

Letter dated 30 July 2018 from the Minister of Finance of the People's Republic of China addressed to the Secretary-General

In my capacity as the Governor of the Asian Infrastructure Investment Bank (AIIB) representing the People's Republic of China, the headquarters State of AIIB, and upon the invitation of AIIB, I have the honour to request, through the Permanent Mission of China to the United Nations and in accordance with rule 14 of the rules of procedure of the General Assembly, the inclusion in the agenda of the seventy-third session of the General Assembly of a supplementary item entitled "Observer status for the Asian Infrastructure Investment Bank in the General Assembly".

AIIB was established as an intergovernmental organization in 2015 by virtue of the AIIB Articles of Agreement, a treaty that has been registered with the United Nations by the Chinese Government as its depositary. As of June 2018, there were 66 members of the Bank, and 21 other countries are expected to ratify the Articles of Agreement and join the Bank by the end of 2018.

AIIB is mandated by its members to foster sustainable economic development, improve infrastructure connectivity in Asia and promote regional cooperation and partnership by working in close collaboration with other international institutions to address development challenges. Over its two and a half years of operation, AIIB has reached cooperation arrangements and co-financed development projects with a large number of international development organizations, including various United Nations specialized agencies and regional development banks. There is no doubt that the General Assembly's granting of observer status to AIIB will further enhance its cooperation with entities in the United Nations system and its contribution to implementation of the 2030 Agenda for Sustainable Development in general.

(*Signed*) Kun **Liu**
Minister of Finance of the People's Republic of China

Annex II

Explanatory memorandum

1. Historical background

The Asian Infrastructure Investment Bank (AIIB) is an intergovernmental institution organized by virtue of the AIIB Articles of Agreement (entered into force on 25 December 2015). It is mandated by its members to: (a) foster sustainable economic development, create wealth and improve infrastructure connectivity in Asia by investing in infrastructure and other productive sectors; and (b) to promote regional cooperation and partnership by working in close collaboration with other multilateral and bilateral development institutions to address development challenges.

2. Membership

Membership of the Bank is open to existing members of the International Bank for Reconstruction and Development or the Asian Development Bank. Membership is divided into regional and non-regional members. As of June 2018, there were 66 members of the Bank, and 21 other countries are expected to ratify the AIIB Articles of Agreement and join the Bank by the end of 2018.

3. Governance

The AIIB is institutionally structured in a manner that is conventional to multilateral development banks. It comprises three governance organs: the Board of Governors, the Board of Directors and the President.

All powers of the Bank are vested in the Board of Governors, constituted of one Governor for each member. The Board of Governors meets at least once a year.

The Board of Directors prepares the work of the Board of Governors, establishes the policies and strategies of the Bank, supervises the management and operations of the Bank by the President, approves the annual plan and budget, forms committees and prepares audited accounts. The Board of Directors is composed of 12 Directors, of whom 9 are elected by the regional membership and 3 by the non-regional membership.

The President, appointed by the Board of Governors, chairs the Board of Directors, is the chief of staff and legal representative of the Bank and conducts the everyday business of the AIIB under the direction of the Board of Directors. As chief of staff, the President is responsible for the management of the Bank's staff, in accordance with staff regulations adopted by the Board of Directors.

4. Capital structure

The $100 billion capital stock of the Bank is divided into one million $100,000 par value shares. Shares are allocated based largely upon the relative share of the global economy of members within the regional and non-regional groupings. The regional shareholding cannot fall below 75 per cent of the subscribed shares without the authorization of the Board of Governors.

The Bank's largest shareholders include China, India, Russia, Germany, Korea, Australia, France, Indonesia, the United Kingdom and Turkey. The liability of the members is limited to the shares they have subscribed to, including the uncalled portion of such shares. The total voting power of the Bank's members is an expression of the combination of 600 votes allocated to each founding member, a number of votes equal to the number of shares held by the member, and an equal division between the members of 12 per cent of the aggregate of basic votes, share votes and

founding member votes. Decision-making by the Board of Governors is on the basis of a simple majority of the votes cast, a special majority (representing a majority of both members and total voting power) or a super majority (comprising two thirds of the members representing not less than three fourths of the total voting power). Matters before the Board of Directors are normally decided by a simple majority of the votes cast. However, certain important operational and financial policies and decisions require a majority of three fourths of the total voting power of the members.

5. Operations

The Bank's mission is to foster sustainable economic development, create wealth and improve infrastructure connectivity in Asia by investing in infrastructure and other productive sectors, as well as by collaborating closely with other international financial institutions and international organizations with a focus on economic development within the Bank's operational areas. AIIB provides or facilitates financing for any of its members, or any agency, institution or political subdivision thereof, or any entity or enterprise operating in the territory of its members, as well as for international or regional agencies or entities concerned with the economic development of Asia. Furthermore, the financing toolkit of AIIB encompasses a huge variety of approaches, including sovereign-backed and non-sovereign-backed loans, equity investment and guaranteeing, whether as primary or secondary obligor, in whole or in part, loans for economic development. In addition, the Bank may provide technical assistance and other types of financing.

As of July 2018, AIIB has approved financing for 28 development projects in the amount of $5.34 billion in both regional and non-regional member countries. The majority of these projects have been collaborations, co-financed with other multilateral development banks, including the World Bank Group, the International Finance Corporation, the Asian Development Bank and the European Bank for Reconstruction and Development.

Over time, most of the resources used to finance projects are expected to be raised by the Bank from international capital markets by issuing AIIB debt securities, as is done by other major multilateral development banks. That the Bank has been assigned the highest credit ratings by the Standard & Poor's Global Ratings, Fitch Ratings and Moody's Investors Service is reflective of the sovereign personality and strong finances of most of its members, the backing of its callable capital, the Bank's prudent financial policies and management, together with the Bank's focus on development, rather than profit maximization.

6. Conclusion

AIIB is committed to and provides tangible assistance for sustainable social and economic development globally. It is keen to develop further cooperation with the United Nations so that it may be able to observe and participate in the deliberations in, or under the auspices of, the United Nations, and to make its own contribution to the policymaking therein on matters such as global governance and international development, in the light of the 2030 Agenda for Sustainable Development.

AIIB membership

AIIB members as of July 2018

Afghanistan
Australia
Austria
Azerbaijan
Bangladesh
Brunei Darussalam
Cambodia
Canada
China
Cyprus
Denmark
Egypt
Ethiopia
Fiji
Finland
France
Georgia
Germany
Hong Kong, China
Hungary
Iceland
India
Indonesia
Iran
Ireland
Israel
Italy
Jordan
Kazakhstan
Republic of Korea
Kyrgyz Republic
Lao People's Democratic Republic
Luxembourg
Madagascar
Malaysia
Maldives
Malta
Mongolia
Myanmar
Nepal
Netherlands
New Zealand
Norway
Oman
Pakistan
Philippines
Poland
Portugal
Qatar
Russia
Samoa
Saudi Arabia
Singapore
Spain
Sri Lanka
Sweden
Switzerland
Tajikistan
Thailand
Timor-Leste
Turkey
United Arab Emirates
United Kingdom
Uzbekistan
Vanuatu
Viet Nam

Countries expected to join AIIB by 31 December 2018

Argentina
Armenia
Bahrain
Belarus
Belgium
Bolivia
Brazil
Chile
Cook Islands
Ecuador
Greece
Kenya
Kuwait
Lebanon
Papua New Guinea
Peru
Romania
South Africa
Sudan
Tonga
Venezuela

More information is available at www.aiib.org.

Annex III

Draft resolution submitted by China

Observer status for the Asian Infrastructure Investment Bank in the General Assembly

The General Assembly,

Noting the aspiration of the Asian Infrastructure Investment Bank to develop its cooperation with the United Nations,

1. *Decides* to invite the Asian Infrastructure Investment Bank to participate in the sessions and the work of the General Assembly in the capacity of observer;

2. *Requests* the Secretary-General to take the action necessary to implement the present resolution.